

THE
UNREPEALED ACTS
OF THE
GOVERNOR-GENERAL IN COUNCIL
1834—1921

BY
NRISINHIADAS BASU, B.L., *Vakil*

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VOL. V.

CONTAINING ACTS FROM 1911—1918

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1925.

Published by S. K. Basu, Kohnagar (near Calcutta.)

Printed by A. C. Bag at the R. L. Printing Works, 21, Kenderdine Lane,
Calcutta.

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2	The Indian Patents and Designs Act, 1911.	Amended by Act 17 of 1914. Amended by Act 11 of 1923.
3	The Criminal Tribes Act, 1911 ...	Rep. by Act 6 of 1924.
4	The Indian Ports (Amendment) Act, 1911.	
5	The Indian Tramways (Amendment) Act, 1911.	
6	The Indian Tariff (Amendment) Act, 1911.	
7	The Indian Paper Currency (Amendment) Act.	Rep. by Act 10 of 1923
8	The Indian Army Act, 1911 ...	Amended by Act 16 of 1914. Amended by Act 16 of 1918. Amended by Act 18 of 1919. Amended by Act 37 of 1920 Amended by Act 33 of 1923. Rep. in part by Act 11 of 1918.
9	The Births, Deaths and Marriages Registration (Amendment) Act, 1911.	
10	The Seditious Meetings Act, 1911 ...	
11	The Indian Universities (Amendment) Act, 1911.	
12	The Indian Factories Act, 1911 ...	Amended by Act 2 of 1922. Amended by Act 4 of 1922.
13	The Indian Christian Marriage (Amendment) Act, 1911.	

Year	Num- ber.	Subject or short title.	Repeals amendments and references.
1911	14	The Court-fees (Amendment) Act, 1911.	
	15	The Indian Forest (Amendment) Act, 1911.	Amended Act 38 of 1920.
	16	The Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911.	
	17	The Indian Aircraft Act, 1911	
	18	The Calcutta Improvement (Appeals) Act, 1911.	
	19	The Cowasjee Jehangir Baronetcy Act, 1911.	
1912	1	The Indian Stamp (Amendment) Act, 1912	
	2	The Co-Operative Societies Act, 1912	Amended by L. P. Act III of 1919 Amended by Act 39 of 1920.
	3	The Indian Post Office (Amendment) Act.	
	4	The Indian Lunacy Act, 1912 ...	Rep. in part by Act 17 of 1914. Rep. in part by Act 18 of 1915. Amended by Act 12 of 1916. Amended by Act 38 of 1920 Amended by Act 6 of 1922. Amended by Act 11 of 1923. Amended by Act 32 of 1923. Amended by Act 33 of 1923.
	5	The Provident Insurance Societies Act, 1912.	
	6	The Indian Life Assurance Companies Act, 1912.	Amended by Act 24 of 1917.
	7	The Bengal, Bihar and Orissa and Assam, Laws Act, 1912.	Amended by Act 38 of 1920.
	8	The Wild Birds and Animals Protec- tion Act, 1912.	Rep. in part by Act 17 of 1914.

Number	Subject or Short title.	Repeal amendments and references.
9	The Presidency Small Cause Court (Amendment) Act, 1912	
10	The Indian Divorce (Amendment) Act, 1912,	
11	The Land Authorities (Emergency) Loans (Amendment) Act, 1912.	Rep. by Act 9 of 1914
12	The Motor Vehicles International Circulation Act, 1912	Rep. by Act 8 of 1914
13	The Delhi Laws Act, 1912 ...	Amended by Act 7 of 1915.
1	The Indian Extradition (Amendment) Act, 1913.	
2	The Official Trustees Act, 1913 ...	Amended by Act 10 of 1914 Amended by Act 18 of 1919. Amended by Act 21 of 1922. Rep. in pt. by Act 5 of 1917.
3	The Administrator-General's Act, 1913	Amended by Act 10 of 1914 Amended by Act 21 of 1922. Rep. in pt. by Act 5 of 1917.
4	The Sir Currimbhoy Ebrahim Bannetcy Act, 1913.	Amended by Act 25 of 1917.
5	The White Phosphorus Matches Prohibition Act, 1913.	
6	The Mussalman Wakf Validating Act, 1913	
7	The Indian Criminal Law Amendment Act, 1913.	
1	The Code of Criminal Procedure (Amendment) Act, 1914.	
2	The Destruction of Insects and Pests Act.	
3	The Indian Copyright Act, 1914 ...	Amended by Act 4 of 1921.

Year	Number.	Subject or short title	Repeal, amendments and references.
1914	4	The Decentralisation Act, 1914 ...	Rep. in part by Act 7 of 1918. Rep. in part by Act 5 of 1920. Rep. in part by Act 31 of 1920. Rep. in part by Act 38 of 1920. Rep. in part by Act 4 of 1923. Rep. in part by Act 21 of 1923. Rep. in part by Act 6 of 1923. Rep. in part by Act 11 of 1923.
	5	The Negotiable Instruments (Amendment) Act, 1914.	
	6	The Provincial Small Cause Courts (Amendment) Act, 1914.	
	7	The Indian Telegraph (Amendment) Act, 1914	
	8	The Indian Motor Vehicles Act, 1914	Rep. in pt. by Act 17 of 1914. Amended by Act 13 of 1916. Amended by Act 27 of 1920. Amended by Act 15 of 1924.
	9	Local Authorities Loans Act, 1914 ...	Amended by Act 38 of 1920.
	10	Repealing and Amending Act, 1914 ...	Rep. by Act 6 of 1924. Rep. in pt. by Act 5 of 1920. Rep. in pt. by Act 31 of 1920. Rep. in pt. by Act 38 of 1920. Rep. in pt. by Act 10 of 1920. Rep. in pt. by Act 4 of 1923. Rep. in pt. by Act 10 of 1923. Rep. in pt. by Act 11 of 1923. Rep. in pt. by Act 21 of 1923. Rep. in pt. by Act 2 of 1924. Amended by Act 31 of 1920.

Year.	Number	Subject or short title	Repeals, amendments and references.
1914	11	The Indian Companies (Amendment) Act, 1914	
	12	The Sea Customs (Amendment) Act, 1914	
	13	The Indian Life Assurance Companies Act	
	14	The Indian Post and Telegraph (Amendment) Act, 1914.	
	15	The Indian Army (Amendment) Act, 1914	
	16	The Indian Air Craft (Amendment) Act, 1914	
	17	The Second Repealing and Amending Act, 1914	Rep. in part by Act 31 of 1920. Rep. in part by Act 38 of 1920
1915	1	The Emergency Legislative Continuance Act, 1915.	Amended by Act 14 of 1915. Amended by Act 21 of 1920.
	2	The Sir Sassoon Jacob David Baronetcy Act, 1915	Private Act.
	3	The Foreigners Act, 1915	
	4	Defence of India Criminal Law Amendment Act	Rep. by Act 14 of 1922.
	5	The Indian Paper Currency (Temporary Amendment) Act, 1915.	Rep. by Act 11 of 1917.
	6	The Indian Patents and Designs Temporary Rules Act, 1915.	Amended by Act 28 of 1920. Amended by Act 29 of 1920.
	7	The Delhi Laws Act, 1915	... Amended by Act 18 of 1919
	8	The Assam Labour and Emigration (Amendment) Act, 1915.	Rep. in pt by Act 11 of 1915.
	9	The Sea Customs (Amendment) Act, 1915.	

Year	Num- ber	Subject or short title.	Revised, amendments and reference
1915	10	The Sir Jamsetjee Jeebhoy Baronet- cy Act, 1915.	Private Act
	11	The Repealing and Amending Act, 1915	Amended by Act 6 of 1924
	12	The Indian Soldiers' Integration Act .	Rep. by Act 9 of 1918
	13	The North West Frontier Constabulary Act, 1915.	
	14	The Enemy Trading Act, 1915	Spent.
	15	The Inland Steam Vessels (Amend- ment) Act, 1915	Rep. in part by Act 1 of 1917
	16	The Benares Hindu University Act, 1915.	Amended by Act 3 of 1922.
1916	1	The Indian Trusts (Amendment) Act, 1916.	
	2	The Defence of India (Amendment) 1916	
	3	The Foreigner's (Trial by Court- martial) Act, 1916.	
	4	The Indian Tariff (Amendment) Act, 1916	Amended by Act 6 of 1921.
	5	The Indian Income-tax (Amendment) Act, 1916	Rep. by Act 7 of 1918.
	6	The Indian Ports (Amendment) Act, 1916.	
	7	The Indian Medical Degrees Act, 1916	
	8	The Presidency Banks (Amendment) Act, 1916	Rep. by Act 17 of 1920.
	9	The Indian Paper Currency (Tempo- rary Amendment) Act, 1916.	Rep. by Act 11 of 1917.
	10	The Enemy Trading Act, 1916 ...	Amended by Act 9 of 1921.
	11	The Import and Export of Goods Act, 1916	Amended by Act 13 of 1920. Amended by Act IV of 1921.

Number	Subject or short title	Repeals amendments and references
12	The Indian Lunacy (Amendment) Act, 1916.	
13	The Amending Act, 1916 ..	
14	The Indian Bill of Exchange Act, 1916.	Amended by Act 9 of 1917.
15	The Hindu Disposition of Property Act.	
1	The Inland Steam Vessels Act, 1917	Amended by Act 11 of 1923 Amended by Act 6 of 1920. Amended by Act 38 of 1920
2	The Motor Spirit Duties Act, 1917	Amended by Act 3 of 1919
3	The Indian Defence Force Act, 1917	Amended by Act 3 of 1918. Amended by Act 9 of 1918. Amended by Act 21 of 1918 Amended by Act 7 of 1919
4	The Indian Army Suspension of Sentences Act.	Rep. by Act 20 of 1920.
5	The Destruction of Records Act, 1917.	
6	The Indian Tariff (Amendment) Act, 1917	Amended by Act 6 of 1921.
7	The Indian Income-tax (Amendment) Act, 1917	Rep. by Act 7 of 1918.
8	The Super tax Act, 1917 ..	Rep. by Act 19 of 1920.
9	The Indian Bills of Exchange (Amendment) Act, 1917.	
10	The Indian Army (Amendment) Act, 1917.	
11	The Indian Paper Currency (Temporary Amendment) Act, 1917.	Rep. by Act 21 of 1920

Year	Number	Subject or short title	Repeals, amendments and references.
1918	12	The King of Oudh's Estate Validation Act, 1917	
	13	The Freight of (Railway and Indian Steam Vessels) Act, 1917.	Rep. by Act 21 of 1922.
	14	The Prevention of Cruelty to Animals (Amendment) Act, 1917.	
	15	The Indian Registration (Amendment) Act	
	16	Patna University Act	Amended by B. & C. Act 2 of 1918. Amended by B. & C. Act 1 of 1922 Amended by B. & C. Act 3 of 1923.
	17	Government Savings Bank (Amendment) Act.	
	18	Post Office Cash Certificate Act . .	Amended by Act 32 of 1920.
	19	The Indian Paper Currency (Amendment) Act	Rep. by Act 10 of 1923.
	20	Indian Transfer of Ships Restriction Act.	Rep. by Act 23 of 1922.
	21	Indian Trusts Amendment Act	
	22	The Gold Import Act.	
	23	Presidency Small Cause Court (Amendment) Act.	
	24	Repealing and Amending Act, 1917,	
	25	Sir Currimbhoy Ebrahim Baronetcy Act.	
	26	Transfer of Property (Validation) Act	
	1	The Indian Forest (Amendment) Act.	
	2	Cinematograph Act	Amended by Act 22 of 1919. Amended by Act 38 of 1920 Rep. by Act 28 of 1920.

Number	Subject or short title	Repeal, amendments and references.
3	Indigo Cess Act	
4	Indian Coinage (Amendment) Act	
5	Criminal Justice Act (Amendment) Act.	
6	Paper Currency (Amendment) Act ...	Rep. by Act 2 of 1919
7	Indian Income-tax Act ...	Rep. by Act 11 of 1922.
8	Indian Defence Force (Amendment) Act.	Rep. by Act 19 of 1920.
9	Indian Soldiers, Litigation Act ...	Amended by Act 12 of 1924.
10	Usurious Loans Act	
11	Indian Army (Amendment) Act.	
12	Indian Companies Act Restriction Act.	Rep. by Act 24 of 1919
13	Indian Paper Currency Act ...	Rep. by Act 21 of 1920
14	Gold Coinage Act.	
15	Enemy Trading Order (Validating) Act.	
16	Provisional Collection of Taxes ...	Amended by Act 11 of 1923.
17	Indian Non-ferrous Metal Industry	
18	Indian Arm (Suspension of Sentences) Amendment	Rep. by Act 20 of 1920.
19	Indian Defence Force (Further Amendment) Act.	Rep. by Act 11 of 1923
20	Indian Companies Foreign Interests	
21	Indian Defence Force (Foreign Service) Amendment	Rep. by Act 19 of 1920
22	Bronze Coin Legal Tender.	
23	Cotton Cloth Act.	

ACT NO. 1 OF 1911.

The Opium (Amendment) Act, 1911

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

Received the Governor-General's Assent on the 5th January 1911.

*An Act further to amend the Opium Act, 1857.**

WHEREAS it is expedient further to amend the Opium Act, 1857;* It is hereby enacted as follows:—

Short title. 1. This Act may be called the Opium (Amendment) Act, 1911.

2. section 3 of the Opium Act, 1857,* for the words "in Calcutta," the words "of the United Provinces of Agra and Oudh" shall be substituted.

Amendment of Act
XIII of 1857, section 3

3. Every order or direction issued, regulation made, sanction given, or other thing lawfully done, under the said Act,* by the Board of Revenue in Calcutta, shall after the commencement of this Act, be deemed to have been issued, made, given, or done by the Board of Revenue of the United Provinces of Agra and Oudh.

Continuance of orders
issued by Board of Re-
venue, Calcutta.

4. Any order or direction, regulation or other thing purporting to have been issued, made, given, or done, under the said Act,* by the Board of Revenue of the United Provinces of Agra and Oudh prior to the commencement of this Act, is hereby ratified and confirmed.

Ratification of order
already issued by Board
of Revenue, United
Provinces

* Act XIII. of 1857.

ACT NO. II. OF 1911.

The Indian Patents and Designs Act, 1911.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

Received the Governor-General's Assent on 2nd March 1911.

*An Act to amend the Law relating to the Protection
of Inventions and Designs.*

WHEREAS it is expedient to amend the law relating to the protection or inventions and designs ; It is hereby enacted as follows :—

PRELIMINARY.

Short title, extent, and
commencement.

1. (1) This Act may be called the
Indian Patents and Designs Act, 1911.

(2) It extends to the whole of British India, including British Baluchistan and the Santhal Parganas and

(3) It shall come into force on the first day of January 1912.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Advocate-General" includes a Government Advocate ;

(2) "article" means (as respects designs) any article of manufacture and any substance, artificial or natural, or partly artificial and partly natural :

(3) "Controller" means the Controller of Patents and Designs appointed under this Act :

(4) "copyright" means the exclusive right to apply a designs to any article in any class in which the design is registered :

(5) "design" means any design applicable to any article whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining or any other means whatever, manual, mechanical, chemical, separate or combined, but does not include any trade or property-mark as defined in sections 478 and 479 of the Indian Penal Code :*

* Act XLV. of 1860.

(6) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure, 1908.†

(7) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure 1898,† in reference to proceedings against European British subjects :

(8) "Invention" means any manner of new manufacture, and includes an improvement and an alleged invention :

(9) "legal representative" means a person who, in law, represents the estate of a deceased person :

(10) "manufacture" includes any art, process, or manner of producing, preparing, or making an article, also any article prepared or produced by manufacture :

(11) "patent" means a patent granted under the provisions of this Act :

(12) "patentee" means the person for the time being entitled to the benefit of a patent :

(13) "prescribed" includes prescribed by rules under this Act : and

(14) "proprietor of a new and original design"—

(a) where the author of the design, for good consideration, executes the work for some other person—means the person for whom the design is so executed ; and

(b) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise—means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired ; and,

(c) in any other case—means the author of the design ; and, where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

* Act V. of 1908. † Act V of 1898.

PART I
PATENTS.

Application for, and Grant of, Patent

3. (1) An application for a patent may be made by any person, whether he is a British subject or not, and whether alone or jointly with any other person.

(2) The application must be made in the prescribed form, and must be left at the Patent Office in the prescribed manner.

(3) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he or, in the case of a joint application, one at least of the applicants claims to be the true and first inventor or the legal representative or assign of such inventor, and for which he desires to obtain a patent, and must be accompanied by a specification, and by the prescribed fee.

(4) Where the true and first inventor is not a party to the application, the application must contain a statement of his name and such particulars for his identification as may be prescribed, and the applicant must show that he is the legal representative or assign of such inventor.

4. (1) The Specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed.

(2) Where the Controller deems it desirable, he may require that suitable drawings shall be supplied with the specification, or at any time before the acceptance of the application, and such drawings shall be deemed to form part of the specification.

(3) The specification must commence with the title, and must end with a distinct statement of the invention claimed.

(4) If, in any particular case, the Controller considers that an application should be further supplemented by a model or sample of anything illustrating the invention, or alleged to constitute an invention, such model or sample as he may require shall be furnished before the acceptance of the application; but such model or sample shall not be deemed to form part of the specification.

5. (1) The Controller shall examine every application, and, if he considers that—

(a) the nature of the invention is not fairly described, or

- (b) the application, specification, and drawings have not been prepared in the prescribed manner, or relate to more than one invention, or,
- (c) the title does not sufficiently indicate the subject-matter of the invention, or
- (d) the statement of claim does not sufficiently define the invention, or
- (e) the invention, as described and claimed, is *prima facie* not a new manufacture or improvement,

he may refuse to accept the application, or require that the application, specification, or drawings be amended before he proceeds with the application; and, in the latter case, the application shall, if the Controller so directs, bear date as from the time when the requirement is complied with.

(2) Where the Controller refuses to accept an application, or requires an amendment, the applicant may appeal from his decision to the Governor-General in Council.

(3) The investigations required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the Governor-General in Council or any officer by reason of, or in connection with, any such investigation, or any proceeding consequent thereon.

(4) Unless an application, is accepted within twelve months from the date of the application, the application shall (except where an appeal has been lodged) become void:

Provided that, where an application is made for an extension of time for the acceptance of an application, the Controller shall, on payment of the prescribed fee, grant an extension of time to the extent applied for, but not exceeding three months.

6. On the acceptance of an application, the Controller shall give notice thereof to the applicant, and shall advertise the acceptance; and the application and specification, with the drawings (if any), shall be open to public inspection.

7. Where an application for a patent in respect of an invention has been accepted, any use or publication of the invention during the period between the date of application and the date of sealing such patent, shall not prejudice the patent to be granted for the invention:

Use of invention on acceptance of application* Provided that an application shall not be entitled to institute any proceedings for infringement unless and until a patent for the invention has been granted to him.

INDIAN PATENTS AND DESIGNS. [1911: Act II.]

After acceptance of an application and before sealing a patent, the Controller shall, if he thinks it advisable or is directed by the Governor-General in Council so to do, refer the specification for inquiry and report to any person whom he thinks fit,

9. (1) Any person may, on payment of the prescribed fee, at any time within three months from the date of the advertisement of the acceptance of an application, give notice at the Patent Office of opposition to the grant of the patent on any of the following grounds, namely —

- (a) that the applicant obtained the invention from him, or from a person of whom he is the legal representative or assign; or
- (b) that the invention has been claimed in any specification filed in British India which is or will be of prior date to the patent, the grant of which is opposed; or
- (c) that the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the specification; or
- (d) that the invention has been publicly used in any part of British India, or has been made publicly known in any part of British India,

but on no other ground.

(2) Where such notice is given the Controller shall give notice of the opposition to the applicant and shall on the expiration of those three months, after hearing the applicant and the opponent, if desirous of being heard decide on the case.

(3) The decision of the Controller shall be subject to appeal to the Governor-General in Council.

10. (1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, a patent shall, on payment of prescribed fee be granted subject to such conditions (if any) as the Governor-General in Council thinks expedient, to the applicant or, in the case of a joint application, to the applicants jointly, and the Controller shall cause the patent to be sealed with the seal of the Patent Office.

(2) A patent shall be sealed as soon as may be, and not after the expiration of eighteen months from the date of application;

Provided that,—

- (a) where the Controller has allowed an extension of the time within which an application may be accepted, a further extension of four months after the said eighteen months shall be allowed for the sealing of the patent;

- (b) where the sealing is delayed by an appeal to the Governor-General in Council, or by a reference under section 8, or by opposition to the grant of the patent may be sealed at such time as the Controller may direct,
- (c) where the patent is granted to the legal representative of an applicant who has died before the expiration of time which would otherwise be allowed for sealing the patent, the patent may be sealed at any time within twelve months after the date of his death,
- (d) where, in consequence of the neglect or failure of the applicant to pay any fee, a patent cannot be sealed within the period allowed by this section, that period may, on payment of the prescribed fee, and on compliance with the prescribed conditions, be extended to such an extent as may be prescribed.

Date of patent **11.** Except as otherwise expressly provided by this Act, a patent shall be dated and sealed as of the date of the application.

Provided that on proceedings shall be taken in respect of an infringement committed before the publication of the specification.

12. (1) A patent sealed with the seal of the Patent Office shall, subject to the other provisions of this Act, confer on the patentee the exclusive privilege of making, selling, and using the invention throughout British India, and of authorizing others so to do.

(2) Every patent may be in the prescribed form, and shall be granted for one invention only, but the specification may contain more than one claim, and it shall not be competent for any person, in a suit or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

13. (1) A patent granted to the true and first inventor or his legal representative or assign shall not be invalidated by an application in fraud of him or by protection obtained thereon, or by any use of publication of the invention subsequent to that fraudulent application during the period of protection.

(2) Where a patent has been revoked on the ground of fraud, or on any other ground, the Controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent in lieu of, and bearing the same date as, the patent so revoked for any invention comprised in the revoked patent to which he was entitled :

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.

Term of Patent.

14. (1) The term limited in every patent for the duration thereof shall save as otherwise expressly provided by this Act, be fourteen years from its date.

(2) A patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to pay the prescribed fees within the prescribed time :

Provided that the Controller, upon the application of the patentee shall, on receipt of such additional fee as may be prescribed, enlarge the time to such an extent as may be applied for but not exceeding three months.

(3) If any proceeding is taken in respect of an infringement of the patent committed after a failure to pay any fee within the prescribed time, and before any enlargement thereof, the Court before which the proceeding is taken may, if it thinks fit, refuse to award any damages in respect of such infringement.

15. (1) A patentee may, after advertising in the prescribed manner his intention to do so, present a petition to the Governor-General in Council, praying that his patent may be extended for a further term ; but such petition must be left at the Patent Office at least six months before the time limited for the expiration of the patent, and must be accompanied by the prescribed fee.

(2) Any person may give notice to the Controller of objection to the extension.

(3) Where a petition is presented under sub section (1), the Governor-General in Council may, as he thinks fit, dispose of the petition himself, or refer it to a High Court for decision

(4) If the petition be referred to High Court, then, on the hearing of such petition under this section, the patentee and any person who has given notice under sub-section (2) of objection shall be made parties to the proceeding, and the Controller shall be entitled to appear and be heard.

(5) The Court to which the petition is referred shall, in considering its decision, have regard to the nature and merits of the

invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(6) If it appears to the Governor-General in Council, or to the High Court when the petition has been referred to it, that the patentee has been inadequately remunerated by his patent, the Governor-General in Council or the High Court, as the case may be, may, by order, extend the term of the patent for a further term not exceeding seven or, in exceptional cases, fourteen, years, or may order the grant of a new patent for such term as may be specified in the order and subject to the payment of such fees as may be prescribed, and containing any restriction, conditions, and provisions which the Governor-General in Council or the High Court, as the case may be, may think fit.

Provided that any patent so extended or granted shall, notwithstanding anything therein, or in this Act, cease if the inventor fails to pay, before the expiration of each year, the prescribed fee.

16. (1) Where any patent has ceased owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the Controller in the prescribed manner for an order for the restoration of the patent.

Restoration of lapsed patent.

(2) Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the prescribed fee.

(3) If it appears from such statement that the omission was unintentional or unavoidable, and that no undue delay has occurred in the making of the application, the Controller shall advertise the application in the prescribed manner, and, within such time as may be prescribed, any person may give notice of opposition at the Patent Office.

(4) Where such notice is given, the Controller shall notify the applicant thereof.

(5) After the expiration of the prescribed period, the Controller shall hear the case, and, subject to an appeal to the Governor-General in Council, issue an order, either restoring the patent subject to any conditions "and restrictions"* deemed to be advisable, or dismissing the application :

Provided that, in every order under this section restoring a patent, such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent had ceased.

* The words within quotations have been inserted by Act 17 of 1914.

Amendment of Application or Specification.

17. (1) An applicant or a patentee may at any time, by request in writing left at the Patent Office, and accompanied by the prescribed fee, seek leave to amend his application or specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation stating the nature of, and the reasons for, the proposed amendment.

(2) If the application for a patent has not been accepted, the Controller shall determine whether, and subject to what conditions (if any) the amendment shall be allowed.

(3) In any other case, the request and the nature of the proposed amendment shall be advertised in the prescribed manner, and at any time within three months from its first advertisement, any person may give notice at the Patent Office of opposition to the amendment.

(4) Where such a notice is given, the Controller shall give notice of the opposition to the person making the request and shall hear and decide the case.

(5) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the Controller shall determine whether, and subject to what conditions, if any, the amendment ought to be allowed.

(6) The decision of the Controller in either case shall be subject to an appeal to the Governor-General in Council.

(7) No amendment shall be allowed that would make the application or specification, as amended, claim an invention substantially large than, or substantially different from, the invention claimed by the application or specification as it stood before amendment.

(8) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed except in case of fraud; and the amendment shall be advertised in the prescribed manner, and shall in all Courts and for all purposes, be deemed to form part of the application or specification.

(9) This section shall not apply when and so long as any suit for infringement or proceeding before a Court for the revocation of the patent is pending.

18. In any suit for infringement of a patent or proceeding before a Court for the revocation of patent, the Court may, by order, allow the patentee to amend his specification by way of disclaimer in such manner, and subject to such terms as to costs advertisement or otherwise as the Court may think fit ;

Provided that no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as is stood before the amendment and, where an application for such an order is made to the Court, notice of the application shall be given to the Controller, and the Controller shall have the right to appear and be heard.

19 Where an amendment of a specification by way of disclaimer, correction, or explanation has been allowed under this Act, no damages shall be given in any suit in respect of the use of the invention before the disclaimer, correction, or explanation under the patentee establishes, to the satisfaction of the Court, that his original claim was framed in good faith, and with reasonable skill and knowledge

Restriction on recovery of damages

Register of Patents.

20. (1) There shall be kept at the Patent Office a book called the Register of patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments, and of transmissions of patents, of licenses under patents, and of amendments, extension, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may be prescribed.

(2) The Register of Invention and Address-book existing at the commencement of this Act shall be incorporated with, and form part of, the Register of Patents under this Act.

(3) The Register of Patents shall be *prima-facie* evidence of any matters by this Act directed or authorized to be inserted therein.

(4) Copies of deeds, licenses, and any other documents affecting the proprietorship in any patent, or in any license thereunder, must be supplied to the Controller in the prescribed manner for filing in the Patent Office; and, unless such copies have been so supplied, such deeds, licenses, or other documents shall not be received as evidence of any transaction affecting a patent.

Crown.

21. Subject to any conditions which the Governor-General in Council may have imposed, a patent shall have, to all intents, the like effect as against His Majesty as it has against a subject :

Provided that the officers or authorities administering any department of the service of His Majesty may, by themselves, their agents, contractors, or others, at any time after the application use the invention for the services of the Crown on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Governor-General in Council, between those officers or authorities and the patentee, or, in default of agreement, as may be settled by the Governor-General in Council after hearing all parties interested.

Compulsory Licenses and Revocation.

22 (1) Any person interested may present a petition to the Governor-General in Council, which shall be left at the Patent Office, together with the prescribed fee, alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for the grant of a compulsory license, or in the alternative, for the revocation of the patent.

(2) The Governor-General in Council shall consider the petition, and, if the parties do not come to an arrangement between themselves, the Governor-General in Council may, as he thinks fit, either dispose of the petition himself, or refer it to a High Court for decision.

(3) The provisions of sub-section (4) of section 15, prescribing the procedure to be followed in the case of references to the Court under that section, shall apply in the case of references made to the Court under this section.

(4) If the Governor-General in Council is of opinion, or where a reference has been made under sub-section (2) to a High Court, that Court finds, that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered to grant licenses, on such terms as the Governor-General in Council or the High Court, as the case may be, may think just, or, if the Governor-General in Council or the High Court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of licenses, the patent may be revoked by order of the Governor-General in Council or the High Court.

Provided that an order of revocation shall not be made before the expiration of four years from the date of the patent, or if the patentee gives satisfactory reasons for his default.

(5) For the purposes of this section, the reasonable requirements of the public shall not be deemed to have been satisfied—

- (a) if, by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article or any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent, or to grant licenses on reasonable terms, any existing trade or industry, or the establishment of any new trade or industry, in British India, is unfairly prejudiced, or the demand for the patented article produced by the patented process is not reasonably met, or
- (b) if any trade or industry in British India is unfairly prejudiced by the conditions attached by the patentee before or after the commencement of this Act to the purchase, hire or use of the patented article, or to the using or working of the patented process
- (c) An order of the Governor-General in council or of the High Court directing the grant of any license under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a license, and made between the parties to the proceeding.

23. (1) At any time not less than four years after the date of Revocation of patents a patent granted under this Act, any person worked outside British India may apply to the Governor-General in Council for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside British India.

(2) The Governor-General in Council shall consider the application, and if, after inquiry, he is satisfied—

- (a) that the allegations contained therein are correct, and
- (b) that the applicant is prepared, and is in a position, to manufacture or carry on the patented article or process in British India, and
- (c) that the patentee refuses to grant a license on reasonable terms.

then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in British India, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the Governor-General in Council may make an order revoking the patent either—

- (i) forthwith; or
- (ii) after such reasonable interval as may be specified in the order, unless, in the meantime, it is shown to his satisfaction that the patented article or process is manufactured or carried on within British India to an adequate extent.

(3) No order removing a patent shall be made under the last sub-section which is at variance with any treaty, convention, arrangement, or engagement with any foreign country or British possession.

(4) The Governor-General in Council may, on the application of the patentee, extend the time limited in any order made under sub-section (2), clause (ii), for such period not exceeding two years as he may specify in a subsequent order, or revoke any order made under sub-section (2), clause (ii), or any subsequent order if sufficient cause is, in his opinion, shown by the patentee.

24. A patentee may at any time, by giving notice in the prescribed manner to the Controller, offer to surrender his patent, and the Controller may, if, after giving notice of the offer, and hearing all parties who desire to be heard, he think fit, accept the offer, and thereupon make an order for the revocation of the patent.

25. A patent shall be deemed to be revoked if the Governor-General in Council declares, by notification in the *Gazette of India*, the patent or the mode in which it is exercised to be mischievous to the State or generally prejudicial to the public.

Legal Proceedings.

26. (1) Revocation of a patent in whole or in part may be obtained on petition to a High Court on all or any of the following grounds, namely—

- (a) that any invention included in the statement of claim is of no utility ;
- (b) that any invention included in the statement of claim was not, at the date of the application for a patent, a new invention within the meaning of this Act ;
- (c) that the applicant was not the true and first inventor thereof or the assign or legal representative of such inventor thereof ;
- (d) that the original or any amended application or specification does not fulfil the requirements of this Act ;
- (e) that the applicant has knowingly or fraudulently included in the application for a patent, or in the original or any amended specification, as his invention, something which was not new, or whereof he

was neither the inventor, nor the assign, nor the legal representative of such inventor,

(f) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent misstatement,

(g) that a part of the invention, or the manner in which a part is to be made and used, as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent or is injurious to the public.

(2) A petition for revocation of a patent may be presented—

(a) by the Advocate-General or any person authorized by him; or

(b) by any person alleging—

(i) that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims, or

(ii) that he, or any person under or through whom he claims, was the true and first inventor of any invention included in the claim of the patentee, or

(iii) that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within British India, before the date of the patent, anything claimed by the patentee as his invention.

(3) The High Court may, irrespective of any provisions of the Code of Civil Procedure, 1908,* in this behalf, require any person, other than the Advocate-General or any person authorized by him, applying for the revocation of a patent, to give security for the payment of all costs incurred, or likely to be incurred, by any person appearing to oppose the petition.

27. (1) Notice of any petition for revocation of a patent under section 26 shall be served on all persons to persons interested appearing from the register to be proprietors of that patent, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is sent by post in a registered letter directed to the person and place for the time being stated in the register.

28. (1) A High Court may, if it thinks fit, direct an issue for Framing issue for trial the trial, before itself or any other High before other Courts. Court, or any District Court, of any ques-

* Act V. of 1908.

tion arising upon a petition to itself under section 26, and the issues shall be tried accordingly.

(2) If the issue is directed to another High Court, the finding shall be certified by that Court to the High Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court directing the issue, and the High Court may thereupon act upon the finding of the District Court, or dispose of the petition upon the evidence recorded, or direct a new trial, as the justice of the case may require.

29. (1) A patentee may institute a suit in a District Court having jurisdiction to try the suit against any person who, during the continuance of a patent acquired by him under this Act in respect of an invention, makes, sells, or uses the invention without his license, or counterfeits it, or imitates it.

(2) Every ground on which a patent may be revoked under this Act shall be available by way of defence to a suit for infringement.

30. A patentee shall not be entitled to recover any damage in respect of any infringement of a patent granted after the commencement of this Act from any defendant who proves that, at the date of the infringement, he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and the making of an article with the word "patent," "patented," or any word or words expressing or implying that a patent has been obtained for the article stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent :

Provided that nothing in this section shall affect any proceedings for an injunction.

31. In a suit for infringement of a patent, the Court may, on the application of either party, make such order for an injunction, inspection, or account, and impose such terms, and give such directions, respecting the same and the proceedings thereon, as the Court may see fit.

32. In a suit for infringement of a patent, the Court may certify that the validity of the patent came in question and, if the Court so certifies, then, in any subsequent suit in that Court for infringement of the same patent, the plaintiff, on obtaining a final order or judgment in his favour, shall, unless the Court trying the suit otherwise directs, have his full costs, charges, and expenses of, and incidental to, the said suit properly incurred.

33. A Court making a decree in a suit under section 29 or an order on a petition, under section 26 shall send a copy of the decree or order, as the case may be, to the Controller, who shall cause an entry thereof and reference thereto to be made in the Register of Patents.

34. A High Court, to which a petition has been presented under section 26, may stay proceedings on, or dismiss, the petition if, in its opinion, the petition would be disposed of more justly or conveniently by another High Court.

35. (1) In a suit or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and shall on the request of either of the parties to the proceedings, call in the aid of an assessor specially qualified, and try the case wholly or partially with his assistance.

(2) A Court exercising appellate jurisdiction in respect of such suit or proceeding may, if it thinks fit, call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall in every case be determined by the Court, and be paid by it as part of the expenses of the execution of this Act.

36. Where any person claiming to be the patentee of an invention, by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent, any person aggrieved thereby may bring a suit against him in a District Court having jurisdiction to try the suit, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby if the alleged infringement to which the threats related was not in fact an infringement of any legal rights of the person making such threats.

Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes a suit for infringement of his patent.

Miscellaneous.

37. Where, after the commencement of this Act, a patent is granted to two or more persons jointly, they shall, unless otherwise specified in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants ; but, subject to any contract to the contrary, each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a license without their consent ; and, if any such person dies, his beneficial interest in the patent shall devolve on his legal representatives.

38 (1) An invention shall be deemed a new invention within the meaning of this Act—

- (a) if it has not, before the date of the application for a patent thereon, been publicly used in any part of British India, or been made publicly known in any part of British India, and
- (b) if the inventor has not, by secret or experimental user, made direct or indirect profits from his invention in excess of such an amount as the Court or the Governor-General in Council, as the case may be, may, in consideration of all the circumstances of the case, deem reasonable.

(2) The public use or knowledge of an invention before the date of the application for a patent thereon shall not be deemed a public use or knowledge within the meaning of this Act if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor, or has been communicated to the public in fraud of such inventor, or in breach of confidence

Provided that such inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for a patent.

39. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Controller, the controller may at any time, on payment of the prescribed fee, seal a duplicate thereof.

40 (1) The exhibition of an invention at an industrial or international exhibition, certified as such by the Governor-General in Council, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the

privity or consent of the inventor, shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention or the validity of any patent granted on the application :

Provided—

(a) the exhibitor, before exhibiting the invention, gives the Controller the prescribed notice of his intention to do so ; and

(b) the application for a patent is made before or within six months from the date of the opening of exhibition.

(2) The Governor-General in Council may, by notification in the *Gazette of India*, apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition certified as such by the Governor-General in Council, and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved, either absolutely, or upon such terms and conditions as may be stated in the notification.

41 The Trustees of the Indian Museum may at any time require a patentee to furnish them with a model or sample of his invention on payment to the patentee of the cost of the manufacture of the model or sample : the amount to be settled, in case of dispute ; by the Governor-General in Council.

42. (1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any Court in British India, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for, or in connection with the manufacture or preparation of anything intended to be sold in, or exported from British India,

(2) This section shall not extend to vessels of any Foreign State of which the laws do not confer corresponding rights with respect to the use of inventions in British vessels while in the ports of that State, or in the waters within the jurisdiction of its Courts.

PART II

DESIGNS.

Registration of Designs

43. (1) The Controller may, on the application of any person claiming to be the proprietor of any new or original design not previously published in British India, register the design under this Part.

Application for registration of designs

(2) The application must be made in the prescribed form, and must be left at the Patent Office in the prescribed manner, and must be accompanied by the prescribed fee.

(3) The same design may be registered in more than one class, and, in case of doubt as to the class in which a design ought to be registered, the Controller may decide the question.

(4) The Controller may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal to the Governor-General in Council

(5) An application, which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time, shall be deemed to be abandoned.

(6) A design, when registered, shall be registered as of the date of the application for registration.

44. Where a design has been registered in one or more classes of goods the application for the proprietor of the design to register it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated—

Registration of designs in new classes

(a) on the ground of the design not being a new and original design, by reason only that it was so previously registered; or

(b) on the ground of the design having been previously published in British India, by reason only that it has been applied to goods of any class in which it was so previously registered.

45. (1) The Controller shall grant a certificate of registration to the proprietor of the design when registered.

Certificate of registration,

(2) The Controller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, furnish one or more copies of the certificate.

46. (1) There shall be kept at the Patent Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of assignments and of transmissions of registered designs, and such other matters as may be prescribed.

(2) The Register of Designs existing at the commencement of this Act shall be incorporated with, and form part of, the Register of Designs under this Act.

(3) The Register of Designs shall be *prima-facie* evidence of any others by this Act directed or authorized to be entered therein.

Copyright in Registered Designs.

47. (1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration.

(2) If, within the prescribed time before the expiration of the said five years, application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller shall, on payment of the prescribed fee, extend the period of copyright for a second period of five years from the expiration of the original period of five years.

(3) If, within the prescribed time before the expiration of such second period of five years, application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller may, subject to any rules under this Act, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years.

48 (1) Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall—

(a) (if exact representations or specimens were not furnished on the application for registration) furnish to the Controller the prescribed number of exact representations or specimens of the design : and, if he fails to do so, the Controller may erase his name from the register, and thereupon the copyright in the design shall cease, and

- (b) cause each such article to be marked with the prescribed mark, or with prescribed words or figures, denoting that the design is registered, and, if he fails to do so, the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

(2) Where a representation is made to the Governor-General in Council by or on-behalf of any trade or industry that, in the interests of the trade or or industry, it is expedient to dispense with or modify as regards any class or description of articles, any of the requirements of this section as to marking, the Governor-General in Council may if he thinks fit, by rule under this Act, dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as he thinks fit

49. The disclosure of a design by the proprietor to any other person in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

50. (1) During the existence of copyright in a design or such shorter period not being less than two years from the registration of the design as may be prescribed, the design shall not be open to inspection except by the proprietor or a person authorized in writing by him or a person authorized by the Controller or by the Court and furnishing such information as may enable the Controller to identify the design, and shall not be open to the inspection of any person except in the presence of the Controller, or of an officer acting under him and on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design or of any part thereof.

Provided that where registration of a design is refused on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design or registered,

(2) After the expiration of the copyright in a design or such shorter period as as aforesaid, the design shall be open to inspection and copies thereof may be taken by any person on payment of the prescribed fee.

(3) Different periods may be prescribed under this section for different classes of goods.

51. On the request of any person furnishing such information as may enable the Controller to identify the design, and on payment of the prescribed fee, the Controller shall inform such person whether the registration still exists in respect of the design, and, if so in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor.

Industrial and International Exhibitions.

52. (1) The exhibition at an industrial or international exhibition certified as such by the Governor-General in Council or the exhibition elsewhere during the period of the holding of the exhibition without the privity or consent of the proprietor of a design or of any article to which a design is applied or the publication during the holding of any such exhibition of a description of a design shall not prevent the design from being registered or invalidate the registration thereof:

Provided that—

(a) the exhibitor, before exhibiting the design or article, or publishing a description of the design gives the Controller the prescribed notice of his intention to do so; and

(b) the application for registration is made before or within six months from the date of the opening of the exhibition.

(2) The Governor-General in Council may, by notification in the *Gazette of India* apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition certified, as such by the Governor-General in Council, and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved, either absolutely, or upon such terms and conditions as may be stated in the notification.

Legal Proceedings.

53. (1) During the existence of copyright in any design, it shall not be lawful for any person,—

(a) for the purpose of sale, to apply, or cause to be applied, to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied, or

(b) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article,

(2) If any person acts in contravention of this section, he shall be liable for every contravention—

(a) to pay to the registered proprietor of the design a sum not exceeding five hundred rupees recoverable as a contract-debt, or,

(b) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded, and to be restrained by injunction accordingly.

Provided that the total sum recoverable in respect of any one design under clause (a) shall not exceed one thousand rupees.

(3) When the Court makes a decree in a suit under subsection (2), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the Register of Designs.

54. The provisions of this Act with regard to certificates of the validity of a patent, and to the provisions of the Act as to remedy in case of groundless threats of legal proceedings by a patentee, shall apply in the case of registered designs, in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.

PART III

GENERAL.

Patent Office and Proceedings thereat.

55. (1) The Governor-General in Council may provide, for the purposes of this Act, an office which shall be called, and is in this Act referred to as, the Patent Office

(2) The Patent Office shall be under the immediate control of the Controller of patents and Designs, who shall act under the superintendence and direction of the Governor-General in Council.

(3) There shall be a seal for the Patent Office.

(4) Any act or thing directed to be done by or to the controller may be done by or to any officer authorized by the Governor-General in Council.

56. The Governor-General in council may appoint the Controller and so many officers and clerks, with such designations and duties as he thinks fit

Fees.

57 (1) There shall be paid in respect of the grant of patents and the registration of designs, and applications therefor, and in respect of other matters with relation to patents and designs under this Act, such fees as may be prescribed by the Governor-General in Council, so, however, that the fees prescribed in respect of the instruments and matters mentioned in the Schedule shall not exceed those there specified.

(2) A proceeding in respect of which a fee is payable under this Act or the rules made thereunder shall be of no effect unless the fee has been paid.

Provisions as to Registers and other Document in the Patent Office.

58. There shall not be entered in any register kept under this Act, or be receivable by the Controller, any notice of any trust, expressed, implied, or constructive.

Notice of trust not to be entered in registers.

59. Every register kept under this Act shall, at all convenient times, be open to the inspection of the public, subject to the provision of this Act, and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

Privilege of reports of Controller

60. Reports of or to the Controller made under this Act shall not in any case be published or be open to public inspection.

Prohibition of publication of specification, drawings, etc., where application abandoned, etc.

61. (1) Where an application for a patent has been abandoned or become void, the specifications and drawings (if any), accompanying or left in connection with such application, shall not, save as otherwise expressly provided by this Act, at any time be open to public inspection, or be published by the Controller.

(2) Where an application for a design has been abandoned or refused, the application and any drawings, photographs, tracings, representations or specimens left in connection with the application shall not at any time be open to public inspection, or be published by the Controller.

Power for Controller to correct clerical errors

62. The controller may, on request in writing accompanied by the prescribed fee,—

- (a) correct any clerical error in, or in connection with, an application for a patent, or in any patent or any specification,
- (b) cancel the registration of a design, either wholly, or in respect of any particular goods in connection with which the design is registered,
- (c) correct any clerical error in the representation of a design, or in the name or address of the proprietor of any patent or design, or in any other matter which is entered upon the Register of Patents or the Register of Designs.

63. (1) Where a person claims to be entitled, by assignment, transmission, or other operation of law, to a patent, or to the copyright in a registered design, the Controller shall, on request, and on proof of title to his satisfaction register his interest in such patent or design.

(2) Where any person claims to be entitled, as mortgagee, licensee, or otherwise, to any interest in a patent or registered design, the Controller shall, on request, and on proof of title to his satisfaction, cause notice of the interest to be entered in the pres-

cribed manner in the Register of Patents or Designs, as the case may be.

(3) The person registered as the proprietor of a patent or design shall, subject to the provisions of this Act, and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the patent or design, and to give effectual receipts for any consideration for any such assignment, license, or dealing :

Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other moveable property.

64. (1) A High Court may, on the application in the prescribed manner, of any person aggrieved by the non-insertion in, or omission from, the Register of Patents or Designs of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging, or varying such entry as it may think fit.

(2) The Court may, in any proceeding under this section, decide any question that it may be necessary or expedient to decide in connection with the rectification of a register.

(3) The prescribed notice of any application under this section shall be given to the Controller, who shall have the right to appear and be heard thereon.

(4) Any order of the Court rectifying a register shall direct that notice of the rectification be served on the Controller in the prescribed manner, who shall, upon the receipt of such notice, rectify the register accordingly.

(5) A High Court to which an application has been made under this section may stay proceedings on or dismiss the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

Powers and Duties of Controller.

65. Subject to any rules in this behalf, the Controller, in any proceedings before him under this Act, shall have the powers of a Civil Court for the purpose of receiving evidence, and administering oaths and enforcing the attendance of witnesses, and compelling the production of documents, and awarding costs,

66. The Controller shall issue periodically a publication of patented inventions containing such information as the Governor-General in Council may direct.

67. Where any discretionary power is by or under this Act given to the Controller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of an application or of a specification, or for registration of a design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard.

68. The Controller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the Governor-General in Council for directions in the matter.

69. The Controller may refuse to grant a patent for an invention, or to register a design, of which the use would, in his opinion, be contrary to law or morality.

70. (1) Where an appeal is declared by this Act to lie from the Controller to the Governor-General in Council, the appeal shall be made within two months of the date of the order passed by the Controller, and shall be in writing, and accompanied by the prescribed fee.

(2) In calculating the said period of two months, the time (if any) occupied in granting a copy of the order appealed against shall be excluded.

(3) The Governor-General in Council may, if he thinks fit, obtain the assistance of an expert in deciding such appeals, and the decision of the Governor-General in Council shall be final.

Evidence, etc.

71. A certificate purporting to be under the hand of the Controller as to any entry, matter, or thing which he is authorized by this Act, or any rules made thereunder to make or do, shall, be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

72. Copies of all specifications, drawings and amendments left at the Patent Office after the commencement of this Act, printed for, and sealed with the seal of, the Patent Office, shall be transmitted as soon as may be, after they have been

accepted or allowed at the Patent Office, to the Governor of Fort St. George in Council, the Governor of Bombay in Council, the Lieutenant-Governor of Burma, and to such other authorities as the Governor-General in Council may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

73 Any application, notice, or other document authorized or required to be left, made, or given at the Patent Office, or to the Controller, or to any other person under this Act, may be sent by post.

74 (1) If any person is, by reason of infancy, lunacy, or other disability, incapable of making any statement or doing anything required or permitted by or under this Act, the lawful guardian, committee, or manager (if any) of the person subject to the disability, or, if there be none, any person appointed by any Court possessing jurisdiction in respect of his property, may make such statement or a statement as nearly corresponding thereto as circumstances permit, and do such thing in the name, and on behalf, of the person subject to the disability.

(2) An appointment may be made by the Court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability, or of any other person interested in the making of the statement or the doing of the thing.

Agency.

Subscription and verification of certain documents

75. The following documents, namely,—

- (1) applications for a patent,
- (2) notices of opposition,
- (3) applications for extension of terms of a patent,
- (4) applications for the restoration of lapsed patents,
- (5) applications for leave to amend,
- (6) applications for compulsory license or revocation, and
- (7) notices of surrenders of patent,

shall be signed and verified, in the manner prescribed, by the person making such applications or giving such notices :

Provided that, if such person is absent from British India, they may be signed and verified on his behalf by an agent resident in British India authorized by him in writing in that behalf.

76. (1) All other applications and communications to the Controller under this Act may be signed by,
 Agency and all attendances upon the Controller may be made by or through, a legal practitioner, or by or through an agent authorized to the satisfaction of the Controller.

(2) The Controller may, if he sees fit, require—

- (a) any such agent to be resident in British India,
- (b) any person not residing in British India to employ an agent residing in British India,
- (c) the personal signature or presence of any applicant, opponent, or other person

Powers, etc., of Governor-General in Council.

***77.** (1) The Governor-General in Council may make such rules as he thinks expedient subject to the
 Power for Governor-General in Council to make rules provisions of this Act -

- (a) for regulating the practice of registration under this Act;
- (b) for classifying goods for the purposes of designs,
- (c) for making or requiring duplicates of specifications, drawings, and other documents,
- (d) for securing and regulating the publishing and selling of copies, at such prices and in such manner as the Governor-General in Council thinks fit, of specifications, drawings, and other documents,
- (e) for securing and regulating the making, printing publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office, and providing for the inspection of indexes and abridgments and other documents;
- (f) generally for regulating the business of the Patent Office, the conduct of proceedings before the Controller, and all things by this Act placed under the direction or control of the Controller, or of the Governor-General in Council; and,
- (g) generally, for the purpose of carrying into effect the provisions of this Act.

(2) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

* See Act 6 of 1915 by which this section is temporarily supplemented.

(5) All rules made under this section shall be published in the *Gazette of India*, and, on such publication, shall have effect as if enacted in this Act.

Offences

78. If any person uses on his place of business, or on any document issued by him or otherwise, the words "Patent Office," or any other words suggesting that his place of business is officially connected with, or is, the Patent Office, he shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with further fine of twenty rupees for each day on which the offence is continued after conviction therefor.

Savings and Repeal.

79. Nothing in this Act shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent, or to the withholding of a grant thereof.

80. The Inventions and Designs Act, 1888,* is hereby repealed.

Provided that this repeal shall not affect any application under the said Act pending at the commencement of this Act, and all proceedings on such application shall be continued as if this Act had not been passed.

81. (1) At any time within two years from the commencement of this Act, any person possessing an exclusive privilege under the Inventions and Designs Act, 1888,* may, by request in writing left at the Patent Office, and on payment of the prescribed fee, seek leave to convert his exclusive privilege under the said Act into a patent under this Act

(2) Notice of any application under this section shall be sent to all persons appearing from the address book kept under the said Act to have any shares or interests in the exclusive privilege.

(3) Save as aforesaid, the procedure prescribed by section 17 in the case of applications under that section shall, so far as may be, apply to every application under this section.

(4) Every patent granted under this section shall be dated as of the date of the exclusive privilege for which it is substituted.

* Act V, of 1888.

THE SCHEDULE

(See Section 57.)

FEES.

	Rs.
On application for a patent	10
Before sealing a patent	30
Before the expiration of the 4th year from the date of the patent	50
Before the expiration of the 5th year from the date of the patent	50
Before the expiration of the 6th year from the date of the patent	50
Before the expiration of the 7th year from the date of the patent	50
Before the expiration of the 8th year from the date of the patent	50
Before the expiration of the 9th year from the date of the patent	100
Before the expiration of the 10th year from the date of the patent	100
Before the expiration of the 11th year from the date of the patent	100
Before the expiration of the 12th year from the date of the patent	100
Before the expiration of the 13th year from the date of the patent	100
Provided that the fees for two or more years may be paid in advance.	
On application to extend term of a patent	50
Before the expiration of each year of the extended term of a patent, or of a new patent granted under section 15	100
On application for registration of a design	3

ACT NO IV OF 1911.

Indian Ports (Amendment) Act, 1911.

[PASSED BY THE GOVERNOR-GENERAL IN COUNCIL]

Received the Governor-General's Assent on the 2nd March 1911.

*An Act to amend the Indian Ports Act, 1908.**

WHEREAS it is expedient to amend the Indian Ports Act, 1908,* It is hereby enacted as follows :—

- | | |
|---------------------------------------|---|
| Short title | 1. This Act may be called the Indian Ports (Amendment) Act, 1911. |
| Amendment of section 6, Act XV., 1908 | 2. For clause (p) of section 6, subsection (1) of the Indian Ports Act,* 1898 the following shall be substituted, namely :— |

“(p) subject to the control of the Governor-General in Council, for the prevention of danger arising to the public health by the introduction and the spread of any infectious or contagious disease from vessels arriving at, or being in, any such port, and for the prevention of the conveyance of infection or contagion by means of any vessel sailing from any such port, and, in particular and without prejudice to the generality of this provision, for—

- (i) the signals to be hoisted, and the places of anchorage to be taken up, by such vessels having any case, or suspected case, of any infectious or contagious disease on board, or arriving at such port from a port in which or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such port, any infectious or contagious disease,
- (ii) the medical inspection of such vessels and of persons on board such vessels ;
- (iii) the questions to be answered, and the information to be supplied, by masters, pilots, and other persons on board such vessels ;
- (iv) the detention of such vessels and of persons on board such vessels ;

* Act XV. of 1908.

- (v) the duties to be performed in cases of any such disease by masters, pilots, and other persons on board such vessels ;
- (vi) the removal to hospital or other place approved by the Health Officer, and the detention therein of any person from any such vessel who is suffering or suspected to be suffering from any such disease ;
- (vii) the cleansing, ventilation, and disinfection of such vessels or any part thereof, and of any articles therein likely to retain infection or contagion, and the destruction of rats or other vermin in such vessels ; and
- (viii) the disposal of the dead on such vessels ; and."

ACT No. V. OF 1911, The Indian Tramways (Amendment) Act, 1911.

[PASSED BY THE GOVERNOR-GENERAL IN COUNCIL]

Received the Governor-General's Assent on the 2nd March 1911

*An Act further to amend the Indian Tramways Act, 1886 **

WHEREAS it is expedient further to amend the Indian Tramways Act, 1886,* It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Tramways (Amendment) Act, 1911 ;

Substitution of new clause (5) in section 3, Act XI of 1886 2. For section 3, clause (5), of the Indian Tramways Act, 1886, the following shall be substituted, namely :—

“(5) ‘tramway’ means a tramway, having one, two or more rails, and includes—

(a) any part of a tramway, or any siding, turn-out connection, line, or track belonging to a tramway ;

(b) any electrical equipment of a tramway ; and

(c) any electric supply-line transmitting power from a generating station or sub-station to a tramway, or from a generating station to a sub-station from which power is transmitted to a tramway.”

3. In section 3, clause (9), of the said Act, after the words “mechanical power,” the words “or electrical power,” and, after the word “producing,” the words “or utilising,” shall be inserted.

Substitution of new clause (e) in section 7 (2), Act XI. of 1886. 4. For section 7, sub-section (2), clause (e) of the said Act, the following shall be substituted, namely :—

“(e) the space which shall ordinarily intervene between the outside of the carriage-way on either side of a road whereon the tramway is to be constructed, and,—

(i) in the case of a tramway having one rail, the rail of the tramway, or,

(ii) in the case of a tramway having two or more rails, the nearest rail of the tramway,

and the conditions on which a smaller space may be permitted."

Amendment of clause
(*m*) of section 7 (2), Act
XI. of 1886

5. In section 7, sub section (2), clause (*m*), of the said Act, after the words "mechanical power," the words "or electrical power" shall be inserted.

Amendment of clause
(*e*) of section 24 (1), Act
XI. of 1886,

6 In section 24, sub-section (1), clause (*e*), of the said Act, after the words "mechanical power," the words "or electrical power" shall be inserted.

7. In section 44
Amendment of section
44, Act XI of 1886.

of the said Act, after the word "engine-sheds," the words "electrical generating station or sub stations" shall be inserted.

ACT No. VIII. OF 1911.
The Indian Army Act, 1911.*

[PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.]

*Received the assent of the Governor-General on the 16th
 March 1911.*

*An Act to consolidate and amend the Law relating to the
 Government of His Majesty's Indian Forces.*

Whereas it is expedient to consolidate and amend the law relating to the government of the Indian officers, soldiers, and other person in His Majesty's Indian Forces; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY

Short title and com-
 mencement.

1. (1) This Act may be called the Indian Army Act, 1911.

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India* direct in this behalf.

Application of Act.

Persons subject to Act

2. (1) The following persons shall be subject to this Act, namely;

- (a) Indian officers and warrant-officers ;
- (b) persons enrolled under this Act ;
- (c) persons not otherwise subject to military law, who, on active service in camp, on the march, or at any frontier post specified by the Governor-General in Council by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, His Majesty's Forces :†

* Vide Act 4 of 1917 by which this Act was temporarily Supplemented

† Certain words after this repeated by Act XI of 1911 have been omitted,

(2) Every person subject to this Act under subsection (1) clause (a) or (b), shall remain so subject until duly discharged or dismissed.

3. (1) The Governor-General in Council may, by notification, direct that any persons or class of persons subject to this Act under section 2, subsection (1), clause (c), shall be so subject as Indian officers, warrant officers, or non-commissioned officers, and may authorize any officer to give a like direction with respect to any such person, and to cancel such direction,

(2) All persons subject to this Act, other than officers, warrant-officers, and non-commissioned officers, shall, if they are not persons in respect of whom a notification or direction under subsection (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

4. Every person subject to this Act under section 2, subsection (1), clause (c), shall, for the purposes of this Act, be deemed to be under the command of the commanding officer of the corps, department, or detachment (if any) to which he is attached, and, if he is not attached to any corps, department, or detachment, under the command of any officer who may, for the time being, be named as his commanding officer by the officer commanding the force with which such person may, for the time being, be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force.

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

5. (1) The Governor-General in Council may, by notification, apply all or any of the provisions of this Act to any force raised and maintained in India under the authority of the Governor-General in Council,

Powers to apply Act to certain forces under the Government of India,

(2) While any of the provisions of this Act apply to any such force, the Governor-General in Council may, by notification, direct by what authority any jurisdiction, powers, or duties incident to the operation of these provisions shall be exercised or performed in respect of that force,

6. (1) Whenever persons subject to this Act are serving—

(a) out of India under an officer not subject to the authority of the Governor-General in Council, or

(b) in India under an officer commanding any military organisation not in this section specifically named and

being, in the opinion of the Governor-General in Council, not less than a brigade,

the Governor-General in Council may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding armies, army corps, divisions and brigades, shall as regards such persons, be exercised." *

Definitions.

Definition.

7. In this Act, unless there is something repugnant in the subject or context,—

(1) "British officer" means a person holding a commission in His Majesty's land forces "and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Majesty's Air Force."†

(2) "Indian officer" means a person commissioned, gazetted, or in pay as an officer holding an Indian rank in His Majesty's Indian Forces;

(3) "warrant officer" means a person appointed, gazetted, or in pay as an Indian warrant-officer in His Majesty's Indian Forces:

(4) "non-commissioned officer" means a person attested under this Act holding an Indian non-commissioned rank in His Majesty's Indian Forces, and includes an acting non-commissioned officer;

(5) "officer" means a British officer or Indian officer, but does not include a warrant-officer or non-commissioned officer;

(6) "commanding officer," when used in any provisions of this Act with reference to any separate portion of His Majesty's forces, or to any department, means the British officer whose duty it is under the regulations of the army, or, in the absence of any such regulation, by the custom of the service, to discharge with respect to that portion of the forces, or that department the functions of commanding officer in regard to matters of the description referred to in that provision:

(7) "superior officer," when used in relation to a person subject to this Act, includes a warrant-officer and a non-commissioned officer; and, as regards persons placed under his orders, a warrant-

* Section 6 have been substituted by Act XI of 1918.

† The words within quotations have been added by Act 33 of 1923.

officer or non-commissioned officer subject to the Army Act * "or the Air Force Act"†

"(8) army, army corps, division and brigade mean respectively an army, army corps, division or brigade which is under the command of an officer subject to the authority of the Governor-General in Council or, when on active service, an army, army corps, division or brigade under the command of an officer holding a commission in His Majesty's land Forces.‡

(9) "corps" means any separate body of person subject to this Act or the Army Act which is prescribed as a corps for the purposes of all or any of the provisions of this Act :

(10) "independent brigade" means a brigade which does not form part of a division :

(11) "department" includes any division or branch of department ;

(12) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates, and any person in arms against whom it is the duty of a person subject to military law to act :

(13) "active service," as applied to a person subject to this Act, means the time during which such person is attached to, or forms part of, a force which is engaged in operations against an enemy, or is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country :

(14) "military custody" means the arrest or confinement of a person according to the usages of the service :

(15) "military reward" includes any gratuity or annuity for long service or good conduct, any good-conduct pay, good-service pay, or pension, and any other military pecuniary reward .

(16) "Court martial" means a Court-martial held under this Act :

(17) "Criminal Court" means a Court of ordinary criminal justice in British India, or established elsewhere by the authority of the Governor-General in Council .

(18) "civil offence" means an offence which, if committed in British India, would be triable by a Criminal Court :

(19) "offence" means any act or omission punishable under this Act, and includes a civil offence as hereinbefore defined :

(20) "notification" means a notification published in the *Gazette of India*.

(21) "prescribed" means prescribed by rules made under this Act ; and

* Stat. 44 & 45 Vict., c 58

† The words within quotations have been inserted by Act 33 of 1923.

‡ The words within quotations have been substituted by Act 11 of 1918.

(22) all words and expressions used herein and defined in the Indian Penal Code,* and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.

CHAPTER II

ENROLMENT AND ATTESTATION.

Enrolment

8. Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled, and shall put to him the questions set forth in the prescribed form of enrollment, and shall, after having cautioned him that, if he makes a false answer to any such question, he will be liable to punishment under this Act, record, or cause to be recorded, his answer to each such question.

9. If, after complying with the provisions of section 8 the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him, and consents to the conditions of service, and if he perceives no impediment, he shall sign "and shall cause the person to sign" † the enrolment paper, and the person shall then be deemed to be enrolled,

10. Every person who has, for the space of six months, been in the receipt of military pay, and been borne on the rolls of any corps or department‡ shall be deemed to have been duly enrolled, and shall not be entitled to claim his discharge on the ground of illegality or irregularity in his enrolment

Attestation.

11. The following persons shall be attested namely :—

(a) all persons enrolled as combatants ;

* Act XLV of 1860

† The words within quotations have been added by Act 11 of 1918

‡ Certain words after this repealed by Act XI of 1918 have been omitted.

(b) all other enrolled persons prescribed by the Governor-General in Council.

12 (1) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation, shall be administered to him in the prescribed form by his commanding officer in front of his corps or such portion thereof, or such members of his department, as may be present, or by any other prescribed person.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to His Majesty, His heirs, and successors, and that he will serve in His Majesty's Indian Forces, and go wherever he is ordered by land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life

(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by the signature of the officer administering the oath or affirmation.

CHAPTER III.

DISMISSAL AND DISCHARGE

Dismissal by Governor-General in Council and Commander-in-Chief in India

13. The Governor-General in Council or the Commander-in-Chief in India may dismiss from the service any person subject to this Act

14. An officer commanding an army, "army corps" * division, or brigade, or any prescribed officer, may dismiss from the service any person serving under his command other than a Indian officer.

15. (Repealed by Act 11 of 1918)

16. The prescribed authority may, in conformity with any rules prescribed in this behalf, discharge from the service any person subject to this Act.

17. Every enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, in the English language, and in the mother-tongue

* The words within quotations have been added by Act 11 of 1918.

of such person (when his mother-tongue is not English), setting forth—

- (a) the authority dismissing or discharging him ,
- (b) the cause of his dismissal or discharge ,
- (c) the full period of his service in the army

18 (1) Any person enrolled under this Act who is entitled Discharge, etc., out of India under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(2) Any person enrolled under this Act who is dismissed from the service, and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed.

" Provided that, when any person is sentenced to dismissal combined with any other punishment such other punishment, or, in the case of a sentence of transportation or imprisonment, a portion of such other punishment, may be inflicted before he is sent to India." * †

CHAPTER IV

SUMMARY REDUCTION AND PUNISHMENTS OTHERWISE THAN BY ORDER OF COURT-MARTIAL.

19. (1) The Commander-in-Chief in India, an officer commanding an army, " army corps " † division, or brigade, or any prescribed officer, may reduce to a lower grade, or to the ranks, any non-commissioned officer under his command.

(2) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer, or, if he has no permanent grade above the ranks, to the ranks.

20. (1) The Commander-in-Chief in India may, subject to the control of the Governor-General in Council, Minor punishments specify the minor punishments to which persons subject to this Act shall be liable without the intervention of a Court martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded.

* The words within quotations have been added by Act 11 of 1923.

† Certain words after this repealed by Act XI of 1918 have been omitted.

‡ The words within quotations have been added by Act 11 of 1923

(2) Imprisonment in military custody "and in case of persons subject to this Act on active service, any prescribed field punishment may be specified as minor punishment,"* provided that —

(a) the term of such imprisonment 'or field punishment' *shall not exceed twentyeight days, and

(b) it shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded, was of or above such rank.

21. Whenever any weapon or part of a weapon forming part of the equipment of a half squadron, battery, company, or other similar unit is lost or stolen, the officer commanding the army, "army corps"† division, or independent brigade to which such unit belongs may, after obtaining the report of a Court of Inquiry, impose a collective fine upon the Native officers, non commissioned officers, and men of such unit or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

22. (1) For any offence, in breach of good order, the commanding officer of any corps or detachment on active service, in camp, on the march, or at any frontier post specified by the Governor-General in Council by notification in this behalf at which troops are stationed, may punish any Native follower of such corps or detachment who is subject to this Act under section 2, sub section (1), clause (c) —

(a) if such follower is not a menial servant, with imprisonment for a term which may extend to thirty days, or with fine which may extend to fifty rupees;

(b) if such follower is a menial servant, with imprisonment for a term which may extend to seven days, or if on active service, with corporal punishment not exceeding twelve strokes of a rattan.

(2) Imprisonment awarded under this section may be carried out in a military guard, or in a jail, as ordered by the said commanding officer; and the officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant under the hand of the said commanding officer, detain the offender, according to the exigency of warrant or until he is discharged by due course of law

* The words within quotations have been added by Act 87 of 1920.

† The words within quotations have been added by Act 11 of 1923.

Provost Marshals.

23 For the prompt and instant repression of irregularities and offences committed in the field, or on the march, provost-marshals may be appointed by the Commander-in Chief in India or an officer commanding an army, "army corps" * division or independent brigade, or an officer commanding the forces in the field, and the powers and duties of such provost marshals shall be regulated according to the established custom of war and the rules of the service

24. (1) The duties of a provost-marshal so appointed are to take charge of prisoners confined for offences of a general description, to preserve good order and discipline, and to prevent breaches of the same by persons belonging or attached to the army. He may at any time arrest and detain for trial any person subject to this Act who commits an offence and may also carry into effect any punishments to be inflicted in pursuance of the sentence of a court-martial."†

"(2) A provost-marshal may punish with any punishment mentioned in section 22, sub-section (1) clause (b) any follower who is subject to this Act under section 2, sub-section (1) clause (c) and is a menial servant and who on active service and in his view, or in the view of any of his assistants, commits any breach of good order and military discipline"†

CHAPTER V.

OFFENCES

Offences in respect of Military Service.

25. Any person subject to this Act, who commits any of the following offences, that is to say,—

Offences punishable with death.

(a) shamefully abandons or delivers up any garrison, fortress, post, or guard committed to his charge, or which it is his duty to defend, or

(b) in presence of an enemy, shamefully casts away his arms or ammunition, or intentionally uses words or any other means to induce any person subject to military law to abstain from acting against the enemy, or to

* The words within quotations have been added by Act 11 of 1918.

† The words within quotations have been added by Act 37 of 1920.

discourage such person from acting against the enemy, or misbehaves in such manner as to show cowardice ; or

- (c) directly or indirectly holds correspondence with, or communicates intelligence to, the enemy or any person in arms against the State, or who, coming to the knowledge of any such correspondence or communication, omits to discover it immediately to his commanding or other superior officer ; or
- (d) treacherously makes known the watchword to any person entitled to receive it,
- (e) directly or indirectly assists or relieves, with money, victuals, or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State, or
- (f) in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison, or quarters, or, spreads reports calculated to create alarm or despondency, or
- (g) being a sentry in time of war or alarm, or over any State prisoner, treasure, magazine, or dockyard, sleeps upon his post, or quits it without being regularly relieved or without leave, or,
- (h) in time of action, leaves his commanding officer or his post or party to go in search of plunder ; or,
- (i) in the time of war, quits his guard, picquet, party or patrol without being regularly relieved, or without leave or,
- (j) in time of war or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to the camp or quarters of any of His Majesty's forces, or forces a safeguard, or breaks into any house or any other place for plunder, plunders, injures, or destroys any field, garden, or other property of any kind ;

shall, on conviction by Court-martial, be punished with death, or with such less punishment as is in this Act mentioned, or

- (k) on active service commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving."*

26. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences not punishable with death.

- (a) strikes, or forces or attempts to force, any sentry ; or,

* The words within quotations have been inserted by Act II of 1918,

- (b) in time of peace, intentionally occasions a false alarm in camp, garrison, or cantonment, or,
- (c) being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge, or under charge of his guard, or,
- (d) being a sentry, in time of peace, sleeps upon his post, or quits it without being regularly relieved, or without leave;

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as in this Act mentioned.

Mutiny and Insubordination.

Offences punishable with death. **27.** Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) begins, excites causes "or conspires with any other person to cause" or joins in any mutiny *
- (b) being present at any mutiny, does not use his utmost endeavours to suppress the same, or
- (c) knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State, does not, without delay give information thereof to his commanding or other superior officer; or
- (d) uses or attempts to use criminal force to, or commits an assault on his superior officer, whether on or off duty, knowing or having reason to believe him to be such, or

(e) disobeys the lawful command of his superior officer, shall, on conviction by Court martial, be punished with death, or with such less punishment as is in this Act mentioned.

Offences not punishable with death. **28.** Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) is grossly insubordinate or insolent to his superior officer in the execution of his office, or
- (b) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field; or

* The words within quotations have been inserted by Act II of 1918.

- (c) impedes a provost marshal or an assistant provost-marshal, or any officer or non commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost-marshal, or any such officer, non-commissioned officer, or other person,

shall on conviction by Court martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned

Desertion, Fraudulent Enrolment, and Absence without Leave

29 Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by Court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Harbouring deserter, absence without leave, etc

30 Any person subject to this Act who commits any of the following offences, that is to say, —

- (a) knowingly harbours any deserter, or who, knowing or having reason to believe that any person has deserted, or that any deserter has been harboured by any person, does not, without delay give information thereof to his own or some other superior officer, or use his utmost endeavours to cause such deserter to be apprehended,
- (b) knowing or having reason to believe that a person is a deserter, procures or attempts to procure the enrolment of such person; or
- (c) without having first obtained a regular discharge from the corps or department to which he belongs, enrolls himself in the same or any other corps or, department; or
- (d) absents himself without leave, or, without sufficient cause, overstays leave granted to him; or,
- (e) being on leave of absence and having received information from proper authority that any corps or portion of a corps, or any department, to which he belongs, has been ordered on active service, fails, without sufficient cause, to rejoin without delay; or,

- (f) without sufficient cause, fails to appear at the time fixed at the parade or place appointed for exercise or duty ; or,
- (g) when on parade, or on the line of march without sufficient cause, or without leave from his superior officer, quits the parade or line of march , or ,
- (h) in time of peace, quits his guard, picquet, or patrol without being regularly relieved, or without leave , or,
- (i) without proper authority, is found two miles or upwards from camp or,
- (j) without proper authority, is absent from his cantonment or lines after tattoo, or from camp after retreat-beating,

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as in this Act mentioned.

Disgraceful Conduct.

Disgraceful conduct. **31** Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments, or military stores of any kind, the property of Government, entrusted to him ; or
- (b) dishonestly receives or retains any property in respect of which an offence under clause (a) has been committed, knowing or having reason to believe the same to have been dishonestly misappropriated or converted , or
- (c) wilfully destroys or injures any property of Government entrusted to him ; or
- (d) commits theft in respect of any property of Government, or of any military mess, band, or institution, or of any person subject to military law, or serving with, or attached to, the army , or
- (e) dishonestly receives or retains any such property as is specified in clause (d) knowing or having reason to believe it to be stolen ; or
- (f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person ; or
- (g) malingers or feigns or produces disease or infirmity in

himself, or intentionally delays his cure or aggravates his disease or infirmity; or

(h) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

(i) commits any offence of a cruel, indecent, or unnatural kind, or attempts to commit any such offence, and does any act towards its commission,

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Intoxication.

32. Any person subject to this Act who is in a state of intoxication, whether on duty or not on duty, shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Persons in Custody.

33. Any person subject to this Act who, without proper authority, releases any State prisoner, enemy, or person taken in arms against the State, placed under his charge or who negligently suffers any such prisoner, enemy, or person to escape, shall, on conviction by Court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

34. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being in command of a guard, picquet, or patrol, refuses to receive any prisoner or person duly committed to his charge, or,

(b) without proper authority releases any prisoner or person placed under his charge, or negligently suffers any such prisoner or person to escape; or,

(c) being in military custody, leaves such custody before he is set at liberty by proper authority,

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment, as is in this Act mentioned.

Offences in relation to Property.

Offences in relation to property.

35. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) commits extortion, or, without proper authority, exacts from any person carriage portage or provisions, or,
- (b) in time of peace, commits house breaking for the purpose of plundering, or plunders, destroys, or damages any field, garden, or other property, or,
- (c) designedly or through neglect, kills, injures, makes away with, ill-treats, or loses his horse, or any animal used in the public service, or
- (d) makes away with, or is concerned in making away with, his arms, ammunition, equipments, instruments, tools, clothing, or regimental necessaries, or
- (e) loses by neglect anything mentioned in clause (d), or
- (f) wilfully injures anything mentioned in clause (d) or any property belonging to Government, or to any military mess, band, or institution, or to any person subject to military law, or serving with, or attached to the army; or
- (g) sells, pawns, destroys, or defaces any medal or decoration granted to him,

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned,

Offences in relation to False Documents and Statements.

False accusations and offences in relation to documents.

36. Any person subject to this Act who commits any of the following offences that is to say,—

- (a) makes a false accusation against any person subject to military law, knowing such accusation to be false; or
- (b) in making any complaint under section 117, knowingly makes any false statement affecting the character of any person subject to military law, or knowingly and wilfully suppresses any material fact; or
- (c) obtains or attempts to obtain for himself, or for any other person any pension, allowance, or other advantage or privilege by a statement which is false, and which he either knows or believes to be true, or, by making or using a false entry in any book or record, or by making any document containing a

false statement, or by omitting to make a true entry or document containing a true statement ; or

- (d) knowingly furnishes a false return or report of the number or state of any men under his command or charge or of any money, arms, ammunition, clothing equipments, stores, or other property in his charge, whether belonging to such men or to Government, or to any person in or attached to the army, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid,

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned

37. Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by Court martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Courts martial.

Offences in relation to Courts-martial.

38. Any person subject to this Act who commits any of the following offences, that is to say—

- (a) when duly summoned to attend as a witness before a Court martial, intentionally omits to attend, or refuses to be sworn or affirmed, or to answer any question, or to produce or deliver up any book, document, or other thing which he may have been duly warned and called upon to produce or deliver up ; or
- (b) intentionally offers any insult, or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign, or gesture, or is insubordinate or violent in the presence of a Court martial while sitting : or
- (c) having been duly sworn or affirmed before any Court-martial or other military Court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true ;

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment, as is in this Act mentioned.

Miscellaneous Military Offences.

Miscellaneous military
offences.

39. Any person subject to this Act who commits any of the following offences, that is to say,

- (a) being an officer or warrant officer, behaves in a manner unbecoming his position and character, or
- (b) strikes or otherwise ill treats any person subject to this Act being his subordinate in rank or position; or
- (c) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person, or to report the case to the proper authority, or
- (d) by defiling any place of worship, or otherwise, intentionally insult the religion or wounds the religious feeling of any person, or
- (e) attempts to commit suicide, and does any act towards the commission of such offence, or
- (f) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazar, carrying a sword, bludgeon or other offensive weapon, or
- (g) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself, or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion, or any other advantage or indulgence for any person in the service, or
- (h) neglects to obey any general or garrison or other orders, or
- (i) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and military discipline;

shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

39 A.* Whoever attempts to commit an offence punishable by this Act or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence may, where no express provision is made by this Act for the punishment of such attempt be punished with the punishment provided in this Act for such offence.*

* Section 3 A has been added by Act 11 of 1918.

Abetment.

40. Every person subject to this Act who abets any offence punishable under this Act may be punished with the punishment provided in this Act for such offence.

Civil offences.

41. Every person subject to this Act who, at any place beyond British India, or when on active service in British India, commits any civil offence, shall be deemed to be guilty of an offence against military law, and, if charged therewith under this section, shall, subject to the provisions of this Act, be liable to be tried for the same by Court-martial, and, on conviction, to be punished as follows, that is to say —

- (a) if the offence is one which would be punishable under the law of British India with death or with transportation, he shall be liable to suffer any punishment "other than the whipping" * assigned for the offence by the law of British India ; and
- (b) in other cases, he shall be liable to suffer any punishment "other than the whipping" * assigned for the offence by the law of British India, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and military discipline.

42. Every person subject to this Act who commits or attempts to commit or abets the commission of an offence punishable under Chapter VI. of the Indian Penal Code,† or any of the following offences against any person subject to military law, that is to say, murder, culpable homicide, or any offence punishable under any of the sections 323 to 335 (both inclusive), or section 506 of the said Code, shall be deemed to be guilty of an offence against military law, and, if charged under this section with any such offence, shall, subject to the provisions of this Act, be liable to be tried by Court-martial, and, on conviction, shall be liable to suffer any punishment assigned for the offence by the said Code.

* The words within quotations have been inserted by Act 37 of 1920.

† Act XLV of 1860.

CHAPTER VI, PUNISHMENTS.

43. Punishments may be inflicted in respect of offences committed by persons subject to this Act, and convicted by Court martial, according to the scale following, that is to say :—

- (a) death ,
- (b) transportation for life or for any period not less than seven years ,
- (c) imprisonment " either rigorous or simple " * for any term not exceeding fourteen years ;
- (d) dismissal from the service ,
- (e) in the case of officers and warrant-officers, suspension from rank, pay, and allowances for " a period not exceeding two months ; "
- (f) reduction, in the case of a warrant-officer, to a lower grade or class (if any) of warrant-officer, or in the case of a non-commissioned officer, to a lower grade, or to the ranks ,
- (g) in the case of officers, warrant-officers, and non-commissioned officers, forfeiture of seniority of rank ,
- " (gg) in case of officers, reprimand or severe reprimand , " *
- (h) forfeitures and stoppages as follows, namely :—
 - (i) forfeiture of service for the purpose of promotion, increased pay, pension, or any other prescribed purpose ;
 - (ii) forfeiture of any military decoration or military reward ;
 - (iii) forfeiture, in the case of a person sentenced to dismissal from the service[†] of all arrears of pay and allowances and other public money due to him at the time of such dismissal ,
 - (iv) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good ;
 - " (v) on active service forfeiture of pay and allowances for a period not exceeding three months." *

44. Where in respect of any offence under this Act there is specified a particular punishment or such lower punishments, less punishment as is in this Act mentioned

* The words within quotations have been substituted by Act 11 of 1918.

† The words within quotations have been substituted by Act 37 of 1920.

‡ Certain words after this repealed by Act 11 of 1918 have been omitted.

there may be awarded in respect of that offence instead of such particular punishment (but subject to the other provisions of this Act as to punishments, and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment

"45. Where any person, subject to this Act and under the rank of warrant officer, on active service is guilty of any offence, it shall be lawful for a court-martial to award for that offence any such punishment, other than flogging, as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb." *

46. "Field punishment"† shall, for the purpose of commutation, be deemed to stand in the scale of punishments next below dismissal.

47. A sentence of Court-martial may award, in addition to or without any one other punishment, any one or more of the punishments specified in clauses (d), (f), (gg)*, and (h) of section 43.

48 Whenever any person is sentenced to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that to say,—

(a) a time not exceeding one month if the term of imprisonment does not exceed six months,

(b) a time not exceeding two months if the term of imprisonment exceeds six months, and does not exceed one year,

(c) a time not exceeding three months if the term of imprisonment exceeds one year.

49. A non-commissioned officer sentenced by Court martial to transportation, imprisonment, "field punishment"† or dismissal from the service, shall be deemed to be reduced to the ranks.

"49A. When any person on active service has been sustained by Court-martial to dismissal or to transportation or imprisonment whether combined with dismissal or not the prescribed officer may direct that such person may be retained to serve in the ranks, and when such person has been sentenced to transportation or

* The words within quotations have been added by Act 11 of 1918.

† The words within quotations have been substituted by Act 37 of 1920.

imprisonment, such service shall be reckoned as part of his term of transportation or imprisonment,"*

CHAPTER VII.

PENAL DEDUCTIONS

50 The following penal deductions may be made from the Deductions from pay and allowances of a person subject to this Act, that is to say—

- (a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment awarded by a Criminal Court, a Court-martial, or an officer exercising authority under section 20, "or of field punishment awarded by a Court martial or such officer."†
- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a Criminal Court or Court martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment "or field punishment,"‡ by an officer exercising authority under section 20,
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him† to have been caused by an offence under this Act committed by him,
- "(cc) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Commander-in-Chief in India"**,
- (d) all pay and allowances ordered by a Court martial to be suspended or forfeited under section 43.
- (e) any sum ordered by a Court martial to be stopped under section 43 ;
- (f) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to, any arms, ammunition, equipment, clothing, instruments, regimental necessaries or military decoration, or to any

* The words within quotations have been inserted by Act 11 of 1918

† The words within quotations have been inserted by Act 37 of 1920

‡ Certain words after this repealed by Act 11 of 1918 have been omitted

buildings or property, as may be awarded by his commanding officer.

- (g) any sum required to pay a fine awarded by a Criminal Court, a Court-martial exercising jurisdiction under section 41 or section 42, or an officer exercising authority under section 20 or section 21

Provided that the total deductions from the pay and allowances of a person subject to this Act made under clauses (e) to (g), both inclusive, shall not (except in the case of a person sentenced to dismissal exceed in any one month one half of his pay and allowances for that month

Explanation.—For the purposes of clauses (a) and (b)—

- (i) absence or custody for six consecutive hours or upwards, whether wholly in one day or partly in one day and partly in another, may be reckoned as absence or custody for a day,
- (ii) absence or custody for twelve consecutive hours or upwards, may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody; and
- (iii) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person.

51. Any sum authorized by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

52 Any deduction from pay and allowances authorized by this Act may be remitted in such manner "and to such extent" * and by such authority as may from time to time be prescribed.

"52A.* (1) In the case of all persons subject to this Act being prisoners of war whose pay and allowances have been forfeited under section 50, but in respect of whom a remission has been made under section 52, it shall be lawful, notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities but of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

* words within quotations have been inserted by Act 10 of 1917.

(2) Any payments hitherto made to dependants by way of deductions from pay and allowances which, if this section have been in force, could have been validly made are hereby validated”*

CHAPTER VIII.

COURTS-MARTIAL.

Constitution and Dissolution of Courts-martial.

Courts martial and the kinds thereof **53.** For the purposes of this Act there shall be four kinds of Court martial, that is to say —

- (1) general Courts-martial,
- (2) district Courts-martial;
- (3) summary general Courts-martial, and
- (4) summary Courts martial.

54. A general Court-martial may be convened by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander in Chief in India.

55. A district Court martial may be convened by any officer having power to convene a general Court-martial, or by any officer empowered in this behalf by warrant of any such officer.

56. A warrant issued under section 54 or section 55 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

57. A general Court-martial shall consist of not less than seven officers unless that number, due regard being had to the public service, is not available, in which case the Court may consist of not less than five officers.

58. A district Court-martial shall consist of not less than three officers.

59. Whenever a general Court martial is ordered to be composed of the smaller number of officers specified in section 57, the order convening the Court shall state that the larger number of officers is not, due regard being had to the public service, available, and such statement shall be conclusive evidence of the fact so stated.

* The words within quotations have been inserted by Act 10 of 1917.

60. The officers composing a general or district Court-martial shall, at the discretion of the convening officer, but subject to the provisions of section 61, either be British or Indian officers, but shall not be partly British and partly Indian officers

Composition of general
or district Courts-martial

61. (1) Any person subject to this Act who is under orders for trial by general or district Court-martial may claim to be tried by British officers.

Claim to trial by British officers

(2) In all cases the right of making such a claim shall, before the Court is convened, be explained to the person under orders for trial by the commanding officer, or some officer, deputed by him in this behalf, and, when such a claim is made, the Court shall be constituted accordingly

62. The following authorities shall have power to convene a summary general Court-martial, namely, —

Convening of Summary
general Courts-martial

- (a) an officer empowered in this behalf by an order of the Governor General in Council or of the Commander-in-Chief in India,
- (b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;
- (c) an officer commanding any detached portion of His Majesty's troops upon active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general Court-martial.

Composition of summary general Courts-martial

63 A summary general Court-martial shall consist of not less than three officers.

Summary Courts-martial

64 (1) A summary Court-martial may be held—

- (a) by the commanding officer any corps or department of His Majesty's Indian Forces, or of any detachment of those forces;
- (b) by the commanding officer of any British corps or detachment to which details subject to this Act are attached.

(2) At every summary Court-martial the officer holding the trial shall alone constitute the Court, but the proceeding shall be

attended throughout by two other officers who shall not, as such, be sworn or affirmed.

65. (1) If a Court-martial after the commencement of a trial is reduced below the smallest member of officers of which it is by this Act required to consist, it shall be dissolved,
 Dissolution of Courts

Provided that a general Court-martial shall not be dissolved under the provisions of this sub-section unless it is reduced below five officers.

(2) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a Court-martial shall be dissolved.

(3) Where a Court-martial is dissolved under this section, the accused may be tried again

Jurisdiction of Courts-martial.

66. When any person subject to this Act has been acquitted or convicted of an offence by a Court-martial or by a Criminal Court, or has been summarily dealt with for an offence under section 20 or section 22, he shall not be liable to be tried again for the same offence by a Court-martial or dealt with summarily in respect of it under either of the said sections.
 Prohibition of second trial

67. No trial by Court-martial of any person subject to this Act for any offence, other than an offence of mutiny, desertion or fraudulent enrolment, shall be commenced after the expiration of three years from the date of such offence and no such trial for an offence of desertion (other than desertion on active service) or of fraudulent enrolment shall be commenced if the person in question has, subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of his Majesty's regular forces.
 Limitation of trial

Explanation.—For the purpose of this section, 'mutiny' means any of the offences specified in clauses (a), (b), and (c) of section 27."*

68. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.
 Place of trial

Adjustment of the Jurisdiction of Courts martial and Criminal Courts

69. When a Criminal Court and a Court martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which Court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a Court-martial to direct that the accused person shall be detained in military custody.

70. (1) When a Criminal Court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the prescribed military authority at its opinion either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Governor General in Council.

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the Court before which the proceedings are to be instituted for the determination of the Governor-General in Council, whose order upon such reference shall be final.

71. (1) Notwithstanding anything contained in section 26, of the General Clauses Act, 1897, or in section 403, of the Code of Criminal Procedure, 1898, a person convicted or acquitted by a Court martial may be afterwards tried by a Criminal Court for the same offence or on the same facts.

(2) If a person sentenced by a Court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a Criminal Court for the same offence or on the same facts, that Court shall, in awarding punishment, have regard to the military punishment he may already have undergone.

Powers of Courts-martial.

72. A general or summary general Court-martial shall have power to try any person subject to this Act for any offence made punishable therein, and to pass any sentence authorized by this Act,

73. A district Court-martial shall have power to try any person subject to this Act other than an officer for any offence made punishable therein, and to pass any sentence authorized by this Act other than a sentence of death, or transportation, or imprisonment for a term exceeding two years.

74. A summary Court-martial may try any offence punishable under any of the provisions of this Act

Provided that, when there is no grave reason for immediate action, and reference can without detriment to discipline be made to the officer empowered to convene a district Court-martial "or in active service a summary general Court Martial" * for the trial of the alleged offender, an officer holding a summary Court-martial shall not try without such reference any of the following offences, namely :—

(a) any offence punishable under section 25 27, clause (a), (b), or (c) 33, 41, or 42, or

(b) any offence against the officer holding the Court.

75. A summary Court martial may try any person subject to this Act and under the command of the officer holding the Court, except an officer or warrant officer.

76 (1) A summary Court-martial† may pass any sentence which can be passed under this Act, except a sentence of death or transportation or of imprisonment for a term exceeding one year *

Procedure at Trials by Court martial.

77. At every general, district, or summary general Court-martial, the senior member shall sit as president.

78. Every general Court martial shall, and every district Court martial may, be attended by a Judge-Advocate, who shall be either an officer belonging to the department of the Judge Advocate General in India, or if no such officer is available, a person appointed by the convening officer.

79. A British officer of not less than four years' service, hereinafter called the superintending officer shall be appointed to superintend the pro-

* The words within quotations have been inserted by Act 11 of 1918.

† Certain words after this repealed by Act X of 1917 have been omitted.

ceedings of every Court-martial composed of Native officers which is not attended by a Judge Advocate.

80. (1) At all trials by general, district, or summary general Challenges Courts martial, as soon as the Court is assembled the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the Court.

(2) If the accused objects to any such officer, his objection and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the Court shall in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one half or more of the votes of the officers entitled to vote, the objection shall be allowed and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed the Court shall proceed with the trial.

81. (1) Every decision of a Court-martial shall be passed by Voting of members an absolute majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused.

(2) In matters other than a challenge or the finding or sentence the president shall have a casting vote.

82. An oath or affirmation in the prescribed form shall be administered to every member of every Court martial and to the Judge Advocate or superintending officer before the commencement of the trial. Oaths of president and members

83. Every person giving evidence at a Court-martial shall be examined on oath or affirmation and shall be duly sworn or affirmed in the prescribed form. Oaths of witnesses

84. (1) The convening officer, the president of the Court, the Judge Advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance before the Court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing. Summoning witnesses and production of documents

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer commanding the corps,

department, or detachment to which he belongs, and such officer shall serve it upon him accordingly

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

(5) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to any letter, postcard, telegram, or other document in the custody of the postal or telegraph authorities

(6) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court, or Court of Session, wanted for the purpose of any Court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(7) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or district Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending, the orders of any such District Magistrate, Chief Presidency Magistrate, or Court.

85. (1) Whenever, in the course of a trial by Court-martial, it appears to the Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense, or inconvenience which, in the circumstances of the case, would be unreasonable, such Court may address the Judge-Advocate-General in order that a commission to take the evidence of such witness may be issued.

(2) The Judge-Advocate-General may then, if he thinks necessary, issue a commission to any district Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) When the witness resides in the territories of any Prince or Chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

(4) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to

the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials and warrant-cases under the Code of Criminal Procedure, 1898.*

(5) Where the commission is issued to such officer as is mentioned in sub-section (3), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

(6) When the witness resides out of India, the commission may be issued to any British Consular officer, British Magistrate or other British official competent to administer an oath and to affirm in the place where such witness resides.

(7) The prosecutor and the accused person in any case in which a commission is issued may respectively forward an interrogatory in writing which the Court may think relevant to the issue, and the Magistrate or officer to whom the commission is issued shall examine the witness upon such interrogatories.

(8) The prosecutor and the accused person may appear before such Magistrate or officer by pleader, or, except in the case of an accused person in custody, in person, and may, examine, cross-examine, and re-examine (as the case may be) the said witness.

(9) After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined there-under, to the Judge-Advocate-General.

(10) On receipt of a commission and deposition returned under sub-section (9), the Judge-Advocate-General shall forward the same to the Court at whose instance the commission was issued or, if such Court has been dissolved, to any other Court convened for the trial of the accused person: and the commission, on its return thereto, and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to a just exception, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the Court.

(11) In every case in which a commission is issued under this section, the trial may be adjourned for a specified time reasonable and sufficient for the execution and return of the commission.

Explanation—In the section, the expression "Judge-Advocate-General" means the Judge-Advocate-General in India, and includes a deputy Judge-Advocate-general.

Conviction of one offence permissible on charge of another.

86. (1) A person charged before a Court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged before a Court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(3) A person charged before a Court-martial with any of the following offences specified in section 31, that is to say, theft, dishonest misappropriation or conversion to his own use of property entrusted to him, or dishonestly receiving or retaining property in respect of which any of the aforesaid offences has been committed knowing or having reason to believe it to have been stolen or dishonestly misappropriated, or converted, may be found guilty of any other of these offences with which he might have been charged.

(4) A person charged before a Court-martial with an offence punishable under section 41 or section 42 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1898,* were applicable.

(5) A person charged before a Court-martial with any other offence under this Act may, on failure of proof of an offence been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

"(6) A person charged before Court-martial with any offence under this Act may be found guilty of having attempted to commit or of abetment of the offence although the attempt or abetment is separately charged."†

87. No sentence of death shall be passed by any Court-martial

Majority requisite to sentence of death.

without the concurrence of two-thirds at the least of the members of the Court.

Evidence before Courts-martial.

88. (1) The Indian Evidence Act, 1872, shall subject to the General rule as to evidence. provisions of this Act, apply to all proceedings before a Court martial.

Judicial notice.

89. A Court-martial may take judicial notice of any matter within the general military knowledge of the members.

* Act V. of 1808

† The words within quotations have been inserted by Act 11 of 1918.

90. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

91. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given "the enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper."*

* **91A.** (1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of His Majesty's Forces, or respecting the circumstance of any person not having served in or belonged to any portion of His Majesty's Forces, if purporting to be signed by or on behalf of the Governor-General in Council or the Commander-in-Chief in India or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(2) Any army list or gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, battalion or arm or branch of the service to which such officers or warrant officers belong.

(3) Where a record is made in any regimental book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(4) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by a provost-marshal, assistant provost-martial or other officer, or any portion of his Majesty's Forces, a certificate purporting to be signed by such provost martial, assistant provost

* The words within quotations and sections 91A have been inserted by Act XI of 1918.

marshal or other officer, or by the commanding officer of that portion of His Majesty's forces, and stating the fact, date and place of such surrender or apprehension shall be evidence of the matters so stated.

(5) When any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.*

“(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.”

92. (1) If, at any trial for desertion, absence without leave, overstaying leave, or not rejoining when summoned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the civil or military service of Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer and adjourn until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence, and have the same effect as if made on oath before the Court.

(3) If the Court is dissolved before the receipt of such reply, or if the Court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings, and order a fresh trial by the same or another Court-martial.

93. (1) When any person subject to this Act has been convicted by a Court martial of any offence, such Court martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a Court martial or by a Criminal Court, and may further inquire into and record the general character of such person, and such other matters as may be prescribed.

* The words within quotations and section 91A have been inserted by Act 11 of 1918.

† The words within quotations have been inserted by Act 33 of 1923.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, Court-martial books or other official records; and it shall not be necessary* to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary Court martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

Confirmation and Revision of Findings and Sentences.

94. No finding or sentence of a general or district Court-martial shall be valid except so far as it may be confirmed as provided by this Act.

Finding and sentence invalid without confirmation,

95. The findings and sentences of general Courts-martial may be confirmed by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander in Chief in India.

Power to confirm finding and sentence of general Court-martial.

96. The findings and sentences of district Courts-martial may be confirmed by any officer having power to convene a general Court-martial, or by any officer empowered in this behalf by warrant of any such officer.

Power to confirm finding and sentence of district Court-martial

97. A warrant issued under section 95 or section 96 may contain such restrictions, reservations, or conditions as the officer issuing it may think fit.

Contents of warrant issued under section 95 or section 96.

98. (1) The finding and sentence of a summary general Court-martial shall require to be confirmed by the convening officer "or if the convening officers so directs, by an authority superior to the convening officers".†

Confirmation of finding and sentence.

(a) in the case of the trial of an officer,

(b) in the case of an acquittal or a sentence of death or transportation or imprisonment for a term exceeding two years, and

(c) in any other case if so ordered by the said officer.

* Certain words after this repealed by Act 33 of 1923 have been omitted.

† Words within quotations have been inserted by Act 11 of 1918.

(*) Save as provided in sub-section (1), a sentence passed by a summary general Court-martial shall not require to be confirmed, but may be carried out forthwith.

99. Subject to such restrictions as may be contained in any Power of confirming warrant issued under section 95 or section 96, a confirming officer may when confirming the sentence of a Court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishment to which the offender might have been sentenced by the Court-martial.

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the Court.

* **“99A.** When a person subject to this Act is tried and sentenced by Court martial while on board ship, the finding and sentence so far as not confirmed and executed on board ship may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.”

100. (1) Any finding or sentence of a Court martial which requires confirmation may be one revised by order of the confirming officer; and on such revision, the Court, if so directed by him, may take additional evidence.

(2) The Court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence, the cause thereof shall be duly certified in the proceedings, and the Court shall proceed with the revision, provided that, if a general Court martial, it still consists of five officers, or if a district Court martial, of three officers

101. The finding and sentence of a summary Court martial shall not require to be confirmed, but may be carried out forthwith.

Provided that if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of an officer commanding no less than a corps.

102. The proceedings of every summary Court martial shall without delay be forwarded to the officer commanding the division or brigade within which the trial was held, or to the presiding officer of the Court-martial.

* Words within quotations have been inserted by Act 11 of 1918.

cribed officer, and such officer, or the Commander in Chief in India, or the officer commanding the army in which the trial was held, may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings or reduce the sentence which the Court might have passed.

103 Where a sentence passed by a Court-martial which has been confirmed, or which does not require confirmation, is found for any reason to be invalid, the authority who would have had power under section 112 to commute the punishment awarded by the sentence, if it had been valid, may pass a valid sentence.

Provided that the punishment awarded by the sentence so passed shall not be higher in the scale of punishment than, or in excess of, the punishment awarded by the invalid sentence.

103A.* (1) Whenever in the Court of a trial by Court-martial it appears to the Court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the Act or that it was wrong or contrary to law, the Court shall record a finding accordingly, and the President of the Court or the other holding the trial, as the case may be, shall forthwith report the case to the confirming officer, or, in the case of a Court-martial whose finding does not require confirmation, to the prescribed officer.

(2) A confirming officer to whom a case is reported under sub-section (1) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another Court-martial for the offence with which he was originally charged.

(3) A prescribed officer to whom a case is reported under sub-section (1) and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner shall report the case for the orders of the Governor General in Council.

(4) On receipt of a report under sub-section (3), the Governor-General in Council may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(5) Where an accused person, having been bound by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention, the prescribed officer may—

(a) if such person is in custody under sub-section (3), on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained under sub-section (4), on a

* Section 103A has been inserted by Act 33 of 1923.

certificate such as is referred to in section 473 of the Code of Criminal Procedure, 1898

take steps to have such person tried by the same or another Court-martial for the offence with which he was originally charged or, provided that the offence is a criminal offence, by a Criminal Court

(6) A copy of every order made by the prescribed officer under sub-section (5) shall forthwith be sent to the Governor-General in Council.

CHAPTER IX.

EXECUTION OF SENTENCES.

104. In awarding a sentence of death a Court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

105. Whenever any person is sentenced under this Act to simple imprisonment, such sentence shall be carried out by confinement in military custody.

106. Whenever any person is sentenced under this Act to transportation or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president, or, in the case of a summary Court-martial, by the Court.

107 Whenever any sentence of transportation or rigorous imprisonment is passed under this Act, or whenever any sentence so passed is commuted to transportation or to rigorous imprisonment, the commanding officer of the person under sentence, or such other officer as may be prescribed, shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined, and shall forward him to such prison with the warrant.

Provided that, in the case of a sentence of rigorous imprisonment for a period not exceeding three months, the confirming officer, or, in the case of a sentence which does not require confirmation, the Court, may direct that the sentence shall be carried out by confinement in military custody.

" Provided further that on active service a sentence of rigorous imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint."*

108 Whenever, in the opinion of an officer commanding an army "army corps"* division, or independent brigade, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in accordance with the provisions of section 105 or section 107, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place

Execution of sentence of imprisonment in special cases

†**108A.** In every case in which a sentence of transportation is passed under this Act, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment and shall be deemed to have been undergoing his sentence of transportation during the term of his imprisonment "

Offenders sentenced to transportation how dealt with until transported.

109. Whenever an order is duly made under this Act setting aside or varying any sentence, order, or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer in charge of the prison in which such person is confined.

Communication of certain orders to civil prison officers

110. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and when the imprisonment awarded exceed three months, the solitary confinement shall not exceed seven days in any one month or the whole imprisonment awarded, with interval between the periods of solitary confinement of not less duration than such periods.

Limit of solitary confinement

111 Repealed by Act 37 of 1920.

" **111A.**† When a sentence of fine is imposed by a Court-martial under section 41 or section 42, whether the trial was held within British India or not, a copy of such sentence signed and certified by the president of the Court or the officer holding the trial, as the case may be, may be sent to any Magistrate in British

Execution of sentence of fine.

* The words within quotations have been added by Act 11 of 1918.

† Section 108A has been inserted by Act 11 of 1918

‡ Section 111A has been inserted by Act XI of 1918.

India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898, for the levy of fines as if it was a sentence of fine imposed by such Magistrate."

CHAPTER X.

PARDONS AND REMISSIONS

"*112 (1) When any person subject to this Act has been convicted by a Court martial of any offence, the Governor General in Council or the Commander-in-Chief in India or, in the case of a sentence which he could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or independent brigade in which such person at the time of his conviction was serving, or the prescribed officer may,

(a) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded,

(b) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act :

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the Court.

(2) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted

Provided that, in the case of a person sentenced to transportation or imprisonment, such person shall undergo only the unexpired portion of his sentence.

(3) When under the provisions of section 49 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section, be treated as a punishment awarded by sentence of a Court-martial,

* Section 112 has been substituted by Act XI of 1918

CHAPTER XI.

RULES.

113. (1) The Governor General in Council may make rules for the purpose of carrying into effect the provisions of this Act.

Powers to make rules

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provided for—

- (a) the discharge from the service of persons subject to this Act;
- (b) the amount and incidence of fines to be imposed under section 21,
- “(bb) the specification of the punishments which may be awarded as field punishments under sections 20 and 45”*
- (c) the assembly and procedure of Courts of inquiry, and the administration of oaths or affirmations by such Courts,
- (d) the convening and constituting of Courts-martial,
- (e) the adjournment, dissolution and sittings of Court martial,
- (f) the procedure to be observed in trials by Court-martial,
- (g) the confirmation and revision of the findings and sentences of Court-martial,
- (h) the carrying into effect sentences of Courts-martial;
- (i) the forms of orders to be made under the provisions of this Act relating to Courts-martial, transportation, or imprisonment,
- (j) any matter in this Act directed to be prescribed and
- “(jj) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 52 A, and the due carrying out of such division”*

(3) All rules made under this Act shall be published in the *Gazette of India*, and, on such publication, shall have effect as if enacted in this Act.

* The words within quotations have been inserted by Act 37 of 1920

CHAPTER XII

PROPERTY OF DECEASED PERSONS, DESERTERS AND LUNATICS

114* The following rules are enacted respecting the disposal of the property of every persons subject to this Act who dies or deserts.—

Property of deceased
persons and deserters

(1) The commanding officer of the corps, detachment or department to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person

(2) In the case of a deceased person who has left in a Government Savings Bank (including any post office Savings Bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may if he thinks fit, require the Secretary or other proper officer of the bank to pay the deposit to him forthwith, notwithstanding anything in any departmental rules, and after payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clause (1) and (2) to the representative.

(4) In the case of a deceased person whose estate is not dealt with under clause (3) and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the regimental or other debts in camp or quarters (if any), and, in case of a deceased person the expenses of his funeral ceremonies, from the proceeds of the sale and from any pay and allowances drawn under clause (1) and from the amount of the deposit (if any) received under clause (2).

(5) The surplus, if any, shall, in the case of a deceased person be paid to his representative (if any), or in the court if no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed person.

(6) In the case of a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to his Majesty, unless this deserter shall in the meantime have surrendered or been apprehended.

Explanation.—A person shall be deemed to be a deserter within the meaning of this section who has
Meaning of desertion. without authority been absent from duty

* Section 114 has been inserted by Act 15 of 1914.

for a period of sixty days and has not subsequently surrendered or been apprehended.

115. Property deliverable and money payable to the representative of a deceased person under section 114 may, if the total value or amount thereof does not exceed one thousand rupees, and of the prescribed persons thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title, and such delivery or payment shall be a full discharge to those ordering or making the same, and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

116. The provisions of section 114 shall, so far as they can be made applicable, in the case of a person subject this Act becoming insane.

Application of section 114 to lunatics.

CHAPTER XIII

MISCELLANEOUS

Military Privileges.

117. (1) Any person subject to this Act who deems himself wronged by any superior or other officer, may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the officer commanding the same.

(2) When the officer complained against is the officer to whom any complaint should, under sub-section (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall examine into it, and, when necessary, refer it to superior authority.

(4) Every such complaint shall be preferred through such channels as may be from time to time specified by proper authority.

Complaints against officers.

118. (1) No president or member of a Court-martial, no Judge-Advocate or superintending officer, no Privileges of persons attending Courts-martial party to any proceeding before a Court martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a Court martial shall, while proceeding to, attending on, or returning from a Court martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process he may be discharged by order of the Court-martial.

119. (1) No person subject to this Act shall, so long as he belongs to His Majesty's Indian Forces, be Exemption from arrest for debt liable to be arrested for debt under any process issued by, or by the authority of any civil or revenue Court or revenue officer.

(2) The Judge of any such Court may examine into any complaint made by such persons or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs, no fee shall be payable to the Court by the complainant.

120. Neither the arms, clothes, equipment, accoutrements, or Property exempted from attachment, necessities of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached by direction of any civil or revenue officer, in satisfaction of any decree or order enforceable against him

121. Every person belonging to the Indian Reserve Forces shall when called out for or engaged upon, Application of the last two foregoing section to reservists or return from training or service, be entitled to all the privileges accorded by sections 119 and 120 to a person subject to this Act.

122. (1) On the presentation to any Court by or on behalf of any person subject to this Act of a certificate, from the proper military authority, of leave of absence having been granted to or applied for, by him for the purpose of prosecuting or defending any suit or other proceeding in such Court, the Court shall, on the application of such person, arrange so far as may be possible, for the hearing and

final disposal of such suit or other proceeding within the period of the leave so granted or applied for

(2) The certificate from the proper military authority shall state the first and last day of the leave or intended leave and set forth a description of the case with respect to which the leave was granted or applied for

(3) No fee shall be payable to the Court in respect of the presentation of any such certificate, or in respect of any application by or in behalf of any such person for priority for the hearing of his case.

(4) Where the Court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the Court to an officer commanding a corps, whose decision shall be final

Deserters and Military Offenders.

123 (1) Whenever any person subject to this Act deserts, Capture of deserters the commanding officer of the corps, department, or detachment to which he belongs shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter, and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended to military custody.

(2) Any Police officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority and shall bring him without delay before the nearest Magistrate to be dealt with according to law

124. (1) Any person subject to this Act who is charged with an offence may be taken into military custody.

(2) Any such person may be ordered into military custody by any superior officer.

(3) The charge against every person taken into military custody shall, without unnecessary delay, be investigated by the proper military authority and, as soon as may be either proceedings shall be taken for punishing the offence, or such person shall be discharged from custody.

125. Whenever any person subject to this Act who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or Police officer, such Magistrate or officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

126 (1) When any person subject to this Act has been absent without due authority from his duty for a period of sixty days a Court of inquiry shall, as soon as practicable be assembled, and, upon oath or affirmation administered in the prescribed manner, shall inquire respecting the the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care or of his arms, ammunition, equipments, instruments, clothing or necessaries, and, if satisfied of the fact of such absence without due authority or other sufficient cause, the Court shall declare such absence and the period thereof, and the said deficiency, if any, and the commanding officer of the corps or department to which the person belongs shall enter in the Court-martial book of the corps or department a record of the declaration

(2) If the person declared absent does not afterwards surrender or is not apprehended he shall for the purposes of this Act, be deemed to be a deserter *

Disposal of Property

126A.* When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Court-martial during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after reading such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

126B.† (1) After the conclusion of a trial before any Court-martial, the court or the officer confirming the finding or sentence of such court-martial or any authority superior to such officer, or, in the case of a Court-martial whose finding or sentence does not require confirmation, the officer commanding the army, army corps, division or brigade within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any

* Certain words after this repealed by Act 11 of 1918 have been omitted

† Certain 126A and 126 B have been inserted by Act 11 of 1918.

person claiming to be entitled to possess thereof, or otherwise, of any property or document produced before the Court or in its custody or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, where the trial was held within British India or not, be sent to a Magistrate in any presidency town or district in which such property for the time being is, and such Magistrate shall thereupon cause the rule to be carried into effect as if it was an order passed by such Magistrate under the provisions of the Code of Criminal Procedure, 1898

Explanation—In the section the term “property” includes, in the case of property regarding which an offence appears to have been committed not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

Repeal.

Repeal.

127. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

Provided that all warrants issued and persons enrolled or attested under the provisions of any of the said enactments shall be deemed to have been respectively issued, enrolled, or attested under this Act.

THE SCHEDULE.
REPEAL OF ENACTMENTS,
(See section 127.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal
1869	V.	The Indian Articles of war ...	The whole.
1875	V.	The Unattested Sepoys Act 1875.	Ditto.
1891	XII.	The Amending Act 1891 ...	So much of section 2, sub-section (2), and the Second Schedule as relates to the Indian Articles of War.
1894	XII.	The Indian Articles of War Amendment Act 1894.	The whole.
1897	XIV.	The Indian Short Titles Act, 1897	So much of section 2 and the Schedule as relates to Act V. of 1875,
1900	I.	The Indian Articles of War Amendment Act 1900.	The whole
1901	IX.	The Indian Articles of War Amendment Act 1901.	Ditto
1904	XIII.	The Indian Articles of War Amendment Act 1904	Ditto.
1905	V	The Indian Articles of War Amendment Act 1905.	Ditto.

ACT NO. IX OF 1911.

The Births, Deaths, and Marriages, Registration (Amendment) Act, 1911.

[RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
ON THE 16TH MARCH 1911]

*An Act further to amend the Births, Deaths, and Marriages
Registration Act, 1886.**

Whereas it is expedient further to amend the Births, Deaths, and Marriages Registration Act, 1886;* It is hereby enacted as follows.—

Short title

1 This Act may be called the Births, Deaths, and Marriages Registration (Amendment) Act, 1911.

Amendment of section
22 of Act VI. of 1886

2 In section 22 of the Births, Deaths, and Marriages Registration Act, 1886,* the following amendments shall be made, namely.—

(1) To sub-section (1) of the said section, the following proviso shall be added, namely —

“Provided that it shall not be necessary for the person giving notice to attend before the Registrar or to sign the entry in the register if he has given such notice in writing and has furnished to the satisfaction of the Registrar such evidence of his identity as may be required by any rules made by the Local Government in this behalf.”

(2) In sub-section (2) of the said section, after the word “signed,” the words “or the conditions specified in the proviso to sub section (1) have been complied with” shall be inserted.

Amendment of sections
26 and 28.

3. In section 26 and in section 28 of the said Act, for the words “Governor-General in Council,” the words “Local Government” shall be substituted.

Substitution of new section 36

4. For section 36 of the said Act, the following section shall be substituted, namely :—

Rules.

“36. (1) The Local Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) fix the fees payable under this Act,
- (b) prescribe the forms required for the purposes of this Act,
- (c) prescribe the time within which, and the mode in which persons authorized under this Act to give notice of a birth or death to a Registrar of Births and Deaths must give the notice;
- (d) prescribe the evidence of identity to be furnished to a Registrar of Births and Deaths by persons giving notice of a birth or death in cases where personal attendance before such Registrar is dispensed with;
- (e) prescribe the registers to be kept and the form and manner in which Registrars of Births and Deaths are to register births and deaths under this Act, and the intervals at which they are to send to the Registrar-General of Births, Deaths, and Marriages true copies of the entries of births and deaths in the registers kept by them;
- (f) prescribe the conditions and circumstances on and in which Registrars of Births and deaths may correct entries of births and deaths in registers kept by them;
- (g) prescribe the particulars which the descriptive list or lists to be prepared by the Commissioners appointed under Chapter V. are to contain, and the manner in which they are to refer to the registers or records, or portions of registers or records, or positions of registers or records, to which they relate; and
- (h) prescribe the custody in which those registers or records are to be kept,

(3) Every power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication,

(4) All rules made under this Act shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Act.

Repeal of section.

5. Section 37 of the said Act is hereby repealed.

Continuation of rules heretofore made by Governor-General in Council.

6. All rules heretofore made under the said Act by the Governor-General in Council shall, after the commencement of this Act, be deemed to have been made by the Local Government.

ACT NO. X. OF 1911.

The Prevention of Seditious Meeting Act, 1911.

[RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
ON THE 22ND MARCH 1911]

An Act to consolidate and amend the Law relating to the Prevention of Public Meetings likely to promote Sedition or to cause a Disturbance of Public Tranquillity.

WHEREAS it is expedient to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity; It is hereby enacted as follows :—

Short title and extent 1. (1) This Act may be called the Prevention of Seditious Meetings Act, 1911.

(2) It extends to the whole of British India, but shall have operation only in such Provinces or parts of Provinces as the Governor-General in Council may from time to time notify in the *Gazette of India*.

2. (1) The Local Government may, with the previous sanction of the Governor-General in Council by notification in the local official Gazette, declare the whole or any part of a province, in which this Act is for the time being in operation, to be a proclaimed area.

(2) A notification made under sub-section (1) shall not remain in force for more than six months; nothing in this sub-section shall be deemed to prevent the Local Government, with the previous sanction of the Governor-General in Council, from making any further notifications in respect of the same area from time to time as it may think fit.

3. (1) In this Act, the expression “public meeting” means a meeting which is open to the public or any class or portion of the public.

(2) A meeting may be a public meeting notwithstanding that it is held in a private place, and notwithstanding that admission thereto may have been restricted by ticket or otherwise, /

4 (1) No public meeting for the furtherance or discussion of any subject likely to cause disturbance or public excitement, or for the exhibition or distribution of any writing or printed matter relating to any such subject shall be held in any proclaimed area—

(a) unless written notice of the intention to hold such meeting and of the time and place of such meeting has been given to the District Magistrate or the Commissioner of Police as the case may be, at least three days previously, or

(b) unless permission to hold such meeting has been obtained in writing from the District Magistrate or the Commissioner of Police, as the case may be.

(2) The District Magistrate or any Magistrate of the first class authorized by the District Magistrate in Power of Magistrate to cause report to be taken. this behalf may, by order in writing, depute one or more Police officers, not being below the rank of head constable, or other persons to attend any such meeting for the purpose of causing a report to be taken of the proceedings.

(3) Nothing in this section shall apply to any public meeting held under any statutory or other express Exception legal authority, or to public meetings convened by a Sheriff, or to any public meetings or class of public meetings exempted for that purpose by the Local Government by general or special order.

5. The District Magistrate or the Commissioner of Police, as the case may be, may at any time, by order in writing, of which public notice shall Power to prohibit public meetings. forthwith be given, prohibit any public meeting in a proclaimed area if, in his opinion, such meeting is likely to promote sedition or disaffection, or to cause a disturbance of the public tranquility.

6. (1) Any person concerned in the promotion or conduct of a public meeting held in a proclaimed area Penalties. contrary to the provisions of section 4 shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Any public meeting which has been prohibited under section 5 shall be deemed to be an unlawful assembly within the meaning of Chapter VIII, of the Indian Penal Code,* and of Chapter IX. of the Code of Criminal Procedure, 1898.†

7. Whoever, in a proclaimed area, in a public place or a place of public resort, otherwise than at a public Penalty for delivery of speeches in public places. meeting held in accordance with, or exempted from, the provisions of section 4, without the permission in writing of the Magistrate of the District or of the Commissioner of Police, as the case may be, previously obtained, delivers any lecture, address, or speech on any subject likely to cause disturbance or public excitement to persons then

* Act XLV. of 1860.

† Act V. of 1898.

present, may be arrested without warrant, and shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

8. No Court inferior to that of a Presidency Magistrate
Cognizence of offences or of a Magistrate of the first class or
Sub-divisional Magistrate shall try any
offence against this Act.

9 The Prevention of Seditious Meetings Act, 1907,* and
Repeals the Continuing Act, 1910,† are hereby
repealed.

* Act V of 1907

† Act XIII. of 1910.

The Indian Universities (Amendment) Act, 1911.

*An Act to amend the Indian Universities Act, 1904.**

Short title. 1. This Act may be called the Indian Universities (Amendment) Act, 1911.

Amendment of section 6, Act VIII of 1904.

" Provided that, in the case of the University of Allahabad, the Chancellor may direct that such number as he may specify of the ordinary Fellows referred to in clause (a) shall be elected by the Senate, and the remainder by registered Graduates."

* Act VIII of 1904.

ACT NO. XII. OF 1911, The Indian Factories Act, 1911,

[PASSED BY THE GOVERNOR-GENERAL IN COUNCIL]

Received His Excellency's Assent on the 24th March 1911.

An Act to consolidate and amend the Law regulating labour in factories.

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories, It is hereby enacted as follows.—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Factories Act, 1911.

Short title, Commence- (2) It shall come into force on the first
ment and extent. day of July 1912, and

(3) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Definitions,

2 In this Act, unless there is anything repugnant in the subject or context,—

"Child "

(1) "child " means a person who is under the age of "fifteen"* years :

"Employed "

(2) a person who works in a factory, whether for wages or not,—

(a) in a manufacturing process or handicraft, or

(b) in cleaning any part of the factory used for any manufacturing process or handicraft, or

(c) in cleaning or oiling any part of the machinery, or

(d) in any other kind of work whatsoever, incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein,

shall be deemed to be employed therein :

* The word within quotations has been inserted by Act 2 of 1922.

Explanation.—The term “manufacturing process” shall be deemed to include the bailing of any material for transport

“Factory.”

(3) “Factory means—

(a) any premises wherein, and within the precincts of which, on any one day in the year not less than twenty persons are simultaneously employed and steam, water or other mechanical power or the chemical power is used in aid of any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adopting for use, for transport or for sale any article or part of an article ; or

(b) any premises wherein, or within the precincts of which on any one day in the year not less than ten persons are simultaneously employed and any such process is carried on, whether such power is used in aid thereof or not which have been declared by the Local Government, by notification in the local official Gazette, to be a factory ; *

A declaration under clause (b) may be made in respect of any class of premises, or in respect of any particular premises.”*†

(5) “mill-gearing” includes every shaft, whether upright, oblique or horizontal, and every wheel, drum, pulley, rope, chain, wire, driving strap or band by which the motion of the first moving power is communicated to any machine appertaining to any manufacturing process :

“Occupier.”

(6) “occupier” includes a managing agent or other person authorized to represent

the occupier

“Prescribed.”

(7) “prescribed” means prescribed by this Act or by rules made thereunder

“(8) ‘week’ means the period between mid-night on Saturday night and the mid night on the succeeding Saturday night.”*†

3. “Nothing in this Act shall apply to any mine subject to the operation of the Indian Mines Act, 1901* †”
Application of Act.

* The words within quotations have been substituted by Act 2 of 1922.

† Certain words after this repealed by Act 2 of 1922 have been omitted.

‡ Act VIII. of 1901.

*
CHAPTER II.

INSPECTORS AND CERTIFYING SURGEONS.

4. (1) The Local Government may, by notification in the local official Gazette appoint such persons as it thinks fit to be inspectors of factories within such local limits as it may assign to them respectively.

(2) No person shall be appointed to be an inspector under subsection (1), or, having been so appointed, shall continue to hold the office of inspector, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(3) The District Magistrate shall be an inspector under this Act.

(4) The Local Government may also, by notification as aforesaid, and subject to the control of the Governor-General in Council, appoint such public officers as it thinks fit to be additional inspectors for all or any of the purposes of this Act within such local limits as it may assign to them respectively.

(5) In any area where there are more inspectors than one, the Local Government may, by notification as aforesaid, declare the powers which such inspectors shall respectively exercise, and the inspector to whom the prescribed notices are to be sent.

(6) Every inspectors shall be deemed to be a public servant within the meaning of the Indian Penal Code* and shall be officially subordinate to such authority as the Local Government may indicate in this behalf.

Powers of Inspector. 5. Subject to any rules in this behalf, an inspector may, with the local limits for which he is appointed,—

(a) enter, with such assistants (if any) as he thinks fit, any place which is, or which he has reason to believe to be, used as a factory ;

(b) make such examination of the premises and machinery and of any prescribed registers, and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act; and

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

6 The Local Government may appoint such qualified medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such Local limits as it may assign to them respectively.

7. (1) A certifying surgeon shall, at the request of any persons desirous of being employed in a factory situated within the local limits for which he is appointed, or of the parent or guardian of such person, or of the manager of the factory in which such person desires to be employed, examine such person and grant him a certificate in the prescribed form, stating his age, as nearly as it can be ascertained from such examination, and whether he is fit for employment in a factory.

“(2) A certifying surgeon may revoke any certificate granted to a child under sub-section (1) if, in his opinion, the child is no longer fit for employment in a factory.

(3) Where a certifying surgeon refuses to certify that a person is fit for employment in a factory or revokes a certificate granted to a child in this behalf, he shall, if required by such person or child, or by the parent or guardian of such person or child, or by the manager of the factory in which such person or child desires to be employed, state in writing his reasons for such a refusal or revocation.”¹

8. A certifying surgeon may authorize any registered practitioner,* to exercise the functions assigned to him by section 7, and may revoke such authority.

Provided that no certificate granted under this section shall, unless confirmed, on personal examination of the person named therein, by the certifying surgeon who conferred the authority, be valid for a period of three months.”*

Explanation—In this section the expression registered practitioners, means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Government, by notifications in the local official Gazette, to be a registered practitioner for the purposes of this section.”†

“8A. Where an Inspector is of opinion that a child employed in a factory is no longer fit for employment, he may serve on the manager of the factory a notice requiring that such child shall cease to be employed until he has been re-examined by a Compulsory medical Examination.

* The words within quotations have been substituted by Act 2 of 1922.

certifying surgeon or by a registered practitioner authorized by a certifying surgeon in this behalf."*

CHAPTER III.

HEALTH AND SAFETY

Sanitary provisions **9.** The following provisions shall apply to every factory —

- (a) it shall be kept clean, and free from effluvia arising from any drain, privy or other nuisance ;
- (b) it shall not be so overcrowded while work is carried on therein as to be dangerous or injurious to the health of the persons employed therein ;
- (c) it shall be ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust or other impurities generated in the course of the work carried on therein that may be injurious to health ;
- (d) the atmosphere shall not be rendered so humid by artificial means as to be injurious to the health of the person employed therein."*

10. If in a factory, in which any process is carried on by which dust or other impurity is generated and inhaled by the workers to an injurious extent, it appears to the inspector that such inhalation could be to a great extent prevented by the use of a fan or other mechanical means, the inspector may serve on the manager of the factory an order in writing directing that a fan or other mechanical means of a proper construction for preventing such inhalation be provided, maintained and used before a specified date.

Provisions as to ventilation by fans in certain factories.

Lighting. **11.** (1) Every factory shall be sufficiently lighted

(2) In the case of any factory which is not in the opinion of the inspector so lighted, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for the attainment of a sufficient standard of lighting, and requiring him to carry them out before a specified date.

* The words within quotations have been substituted by Act 2 of 1922.

12. (1) In any factory in which humidity of the atmosphere is produced by artificial means, the water used for humidifying used for the purpose of producing humidity shall be taken either from a public supply of drinking water or from some other source of water ordinarily used for drinking, or shall be effectively purified before being used for the purpose of producing humidity.

(2) In the case of any factory in which any water required under sub-section (1) to be effectively purified is not in the opinion of the inspector so purified, the inspector may serve on the manager of the factory an order in writing specifying the measures which he considers necessary for effectively purifying the water and requiring him to carry them out before a specified date.

13 Every factory shall be provided with sufficient and suitable latrine accommodation, and if the Local Government so requires, with separate urinal accommodation for the person employed in the factory,

Provision of latrines and urinal accommodation.

Provided that the inspector may, subject to such conditions as the Local Government may lay down in this behalf, by an order in writing exempt any factory from the provisions of this section.

14. In every factory there shall be maintained a sufficient and suitable supply of water fit for drinking for the use of the persons employed in the factory

Water-supply

15. In every factory, the construction of which is commenced after the commencement of this Act, the doors of each room in which more than thirty persons are employed shall, except in the case of sliding doors, be constructed so as to open outwards.

Doors of factory to open outwards.

16. (1) Every factory shall be provided with such means of escape in case of fire for the persons employed therein as can reasonably be required in the circumstances of each case.

Provision of means of escape in case of fire.

(2) In the case of any factory which is not in the opinion of the inspector so provided, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for providing such means of escape, and requiring him to carry them out before a specified date.

17. No person shall smoke, or use a naked light or cause or permit any such light to be used, in the immediate vicinity of any inflammable material in any factory.

Precautions against fire.

18. (1) (a) Every fly-wheel directly commenced with a steam-engine, water-wheel or other mechanical power or electrical power in any part of the factory and every part of any water wheel or engine worked by any such power,

(b) every hoist or teagle and every hoist-well, trap-door or other similar opening near which any person is liable to pass or be employed, and

(c) every part of the machinery "and electrical fittings including line wires and switches" which the Local Government may by rule shall be kept fenced, shall be securely fenced.

(2) If in any factory there is any other part of the machinery or mill gearing which may in the opinion of the inspector be dangerous if left unfenced, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for fencing such part in order to remove the danger, and requiring him to carry them out before a specified date.

(3) All fencing must be constantly maintained in an efficient state while the parts required to be fenced are in motion or use, except where they are under repair or are under examination in connection with repair or are necessarily exposed for the purpose of cleaning or lubricating or for altering the gearing or arrangements of the parts of the machinery.

(4) Such provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery or boilers of any factory.

"18A. (1) If an inspector is of opinion—

(a) that any factory or part thereof is in such a condition as to be dangerous to human life or safety, or

(b) that any part of the ways, works, machinery or plant used in a factory is in such a condition that it cannot be used without danger to human life, or safety,

he may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for removing the danger and requiring him to carry them out before such date as may be specified therein. *

(2) If, in the opinion of the inspector, the use of any part of the ways, works, machinery or plant in a factory involves imminent danger to human life, he may serve on the manager of the factory an order in writing prohibiting the use thereof until it is duly registered or altered." *

* The words "is within quotations have been added by Act II of 1922,

19. No woman or child shall be allowed to clean any part of the mill-gearing or machinery of a factory while the same is in motion by the action of steam, water or other mechanical power or electrical power, as the case may be, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of any power above described

19A.† Where, in the opinion of the Inspector, the presence in any factory or any part thereof of children, who, by reason of their age, cannot, under the provisions of this Act, be lawfully employed therein, involves danger to or injury to the health of, such children, he may serve on the manager of such factory an order in writing, prohibiting the admission of such children to the factory or part thereof.

19B.† No person under the age of eighteen years and no woman shall be employed in any factory in any of the operations specified in Part I of the schedule, or save in accordance with the regulations contained in Part II of the schedule, in any operates involving the use of lead compounds.

Prohibition of employment of women and children where cotton-openers are at work

20. No woman or child shall be employed in the part of a factory for pressing cotton in which a cotton-opener is at work :

Provided that, if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending from the floor to the roof, "or to such height as the inspector may, in any particular case, specify," * women and children may be employed in the room in which the feed end is situated.

CHAPTER IV.

HOURS OF EMPLOYMENT AND HOLIDAYS.

21.† (1) In every factory there shall be fixed—

(a) for each person employed on each working day—

(i) at intervals not exceeding six hours, periods of rest of not less than one hour, or

* The words within quotations have been added by Act II of 1922.

† Sections 19A and 19B have been added and section 21 has been substituted by Act 2 of 1922

- (11) at the request of the employers concerned, periods of rest of not less than half an hour each so arranged that, for each period of six hours work done, there shall be periods of rest of not less than one hour's duration in all, and that no person shall work for more than five hours continuously, and

(2) The periods of rest under clause (b) shall be so fixed that no such child shall be required to work continuously for more than four hours.

Weekly holiday.

22. (1) No person shall be employed in any factory on a Sunday, unless—

- (a) he has had, or will have, a holiday for a whole day on one of the three days immediately preceding or succeeding the Sunday, and
- (b) the manager of the factory has previous to the Sunday or the substituted day, whichever is earlier, given notice to the inspector of his intention so to employ the said person and of the day which is to be substituted and has at the same time affixed a notice to the same effect in the place mentioned in section 36.

"Provided that no such substitution shall be made as will result in any person working for more than ten consecutive days without a holiday for a whole day."*

Employment of children.

23. With respect to the employment of children in factories the following provisions shall apply.—

- (a) no child shall be employed in any factories unless he is in possession of a certificate granted under section 7 or section 8 showing that he is not less than "twelve"† years of age and is fit for employment in a factory, and while at work carries either the certificate itself or a token given reference to such certificate,
- (b) no child shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening ;
- (c) no child shall be employed in any factory for more than "six"† hours in any one day.

* Certain words after this repealed by Act 14 of 1922 have been omitted.

† The words within quotations have been added by Act 2 of 1922.

Employment of women

24. With respect to the employment of women in factories the following provisions shall apply :—

(a) no woman shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening ;

(b) no woman shall be employed in any factory for more than eleven hours in any one day.

25. No person shall employ, or permit to be employed, in any factory any woman or child "or, save in such circumstances as may be prescribed, any other person"* whom he knows, or has reason to believe, to have already been employed on the same day in any other factory.

26. The manager of a factory shall fix specified hours for the employment of each "person"* employed in such factory, and no "person"* shall be employed except during such hours.

Hours of employment of women and children to be fixed.

27.† No person shall be employed in a factory for more than sixty hours in any one week.

28.‡ No person shall be employed in any factory for more than eleven hours in any one day."

Limitation of working hours per day.

" CHAPTER V.‡

EXCEPTIONS

29. Nothing in any of the following sections namely, 21, 22, 24, 26, 27 and 28 shall apply to persons who may, by rules made by the Local Government under this Act, be defined to be persons holding positions of supervision or management or to persons employed in a confidential capacity.

30. (1) Where it is proved to the satisfaction of the Local Government—

(a) that any class of work in a factory is in the nature of preparatory or complementary work which must neces-

* The words within quotations have been inserted by Act 2 of 1922.

† Sections 27 and 28 have been substituted by Act 2 of 1922.

‡ Chapter V has been substituted by Act 2 of 1922.

- sarily be carried on outside the limits laid down for the general working of the factory, or
- (b) that the work of any class of workers is essentially in intermittent; or
 - (c) that there is in any class of factories any work which necessitates continuous production for technical reasons, or
 - (d) that any class of factories supplies the public with articles of prime necessity which must be made or supplied every day, or
 - (e) that in any class of factories the work performed, by the exigencies of the trade or by its nature, can not be carried on except at stated seasons or at times dependent on the irregular action of natural forces,

the Local Government may, subject to the control of the Governor-General in Council, by notification in the local official Gazette, exempt or such conditions, if any, as it may impose—

- in case (a) such class of works from all or any of the provisions of sections 27 and 28,
- in case (b) work of the nature described from all or any of the provisions of sections 22, 27 and 28,
- in case (c) work of the nature described from the provisions of sections 21 and 22.
- in cases (d) and (e) such class of factories from this provisions of section 22.

(2) The Local Government may, by general order exempt for such periods or may be specified in the order and in such conditions, if any, as it may impose, any factory from all or any of the provisions of sections 21, 22, 17 and 28, on the ground that such exemption is necessary in order to enable such factory to deal with an exceptional press of work.

(3) In such circumstances and subject to such conditions as may be prescribed, nothing in section 21, section 22, section 27 or 28 shall apply to work in urgent repairs.

31. Where under the provisions of sub-section (1) of section 31, any factory has been exempted from the provisions of section 27, every person employed in such factory for more than sixty hours in any one work shall be paid, in respect of the overtime, at a rate which shall be at least one and a quarter times the rate at which he is normally paid.

32. The Local Government may, subject to the control of the Governor-General in Council, by notification in the local official Gazette exempt any indigo factory or any factory situated on, and used solely for the purposes of a tea or coffee plantation, from all or any of the provisions of sections 21 and 22, on such conditions, if any, as it may impose."

Special exemptions for
Indigo, tea and coffee
factories

CHAPTER VI.

NOTICES AND REGISTERS

Person occupying the factory to give notice

33. (1) Every person occupying a factory shall,—

(a) in the case existing factories, within one month after the commencement of this Act, or

(b) in the case of a factory which starts work after the commencement of this Act, within one month after he begins to occupy the factory,

send to the inspector a written notice containing

(i) the name of the factory and of the place where it is situate,

(ii) the address to which he desires his letters to be directed,

(iii) the nature of the work performed in such factory,

(iv) the nature and amount of the moving power therein, and

(v) the name of the person who shall be deemed to be the manager of the factory for the purposes of this Act,

Provided that in the case of a seasonal factory such notice shall be sent on or before the date of starting work for each season.

(2) If the manager of the factory is changed, the occupier shall send to the inspector, within seven days from the date on which the change is made, written notice of the change.

(3) During any period for which no person has been designated as manager of a factory under this section, the occupier shall himself be deemed to be the manager of the factory for the purposes of this Act

34. When any accident occurs in a factory causing death or bodily injury, whereby the person injured is prevented from returning to his work in the factory during the forty-eight hours next after the occurrence of the accident, the manager shall send notice of the accident to such authorities in such form and within such times as may be prescribed.

35. In every factory there shall be kept in the prescribed form, a register of all the persons employed in such factory, of their hours of work and of the nature of their respective employment.”*

* The words within quotations have been substituted by Act 2 of 1922.

36 (1) There shall be affixed in some conspicuous place near the main entrance of every factory, in English and in the language of the majority of the operatives in such factory, the prescribed abstracts of this Act and of the rules made thereunder, and also a notice containing the standing orders of the factory upon the following matters, namely :—

- (a) the time of beginning and ending work on each day ;
- “(b) the periods of rest fixed under section 21”*
- (c) the hours of beginning and ending work for each shift (if any) ; and
- (d) the hours of employment of ‘all persons employed’*
- “(e) the weekly holidays fixed under section 22”*

(2) A copy of the said notice shall be sent to the inspector within one month of the commencement of this Act, or, in the case of a factory which starts work after the commencement of this Act, within one month of commencing work

(3) The said notice shall be correctly maintained and kept up to date and intimation of any change therein shall be sent by the manager to the inspector within seven days.†

CHAPTER VII.

RULES.

37. (1) Subject to the control of the Governor-General in Council, the Local Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the inspection of factories ;
- (b) the manner in which inspectors are to exercise the powers conferred on them by this Act ;
- (c) the duties to be performed by certifying surgeons ;
- (d) the form of the certificate prescribed by section 7, the grant of a duplicate in the event of loss of the original certificate, and the fee, if any, to be charged for such duplicate ;
- (e) the methods including lime-washing, painting, varnishing and washing, to be adopted in order to secure cleanliness and freedom from effluvia ;

The words within quotations have been inserted by Act 2 of 1922.

Certain words after this repealed by Act 2 of 1922 have been omitted.

- (f) the proportion which the number of cubic feet of space in any room shall bear to the number of persons employed at one time therein ,
- (g) standards of ventilation, "and artificial humidification"* and the methods to be adopted in order to secure their observance ,
- (h) standards of latrine and urinal accommodation ;
- (i) standards of water-supply ,
- (j) the parts of the machinery to be kept fenced in accordance with section 18, sub section (1), clause (c), and the provisions to be made for the protection from danger of persons employed in attending to the machinery or boilers ,
- (j) the definition of person under section 29, who shall be deemed to be persons holding position of supervision or management or persons employed in a confidential capacity ; "†
- (k) the form of the notice prescribed by section 34, and the time within which and the authorities to whom it shall be sent ;
- (l) the form of the register prescribed by section 35 ;
- (m) the abstracts of the Act and of the rules required by section 36 .
- (n) the procedure to be followed in presenting and hearing appeals under this Act, including the appointment and remuneration of assessors , and
- (o) the manner of service of notice and orders upon occupiers or managers of factories.

38. The Governor-General in Council may ‡ make rules requiring occupiers or managers of factories to furnish such returns, occasional or periodical, as may in his opinion be necessary for the effectual carrying out of this Act.

Returns.
Rules of prevention of anthrax.

38A. The Governor-General in Council may make rules for the adequate disinfection of wool used in factories which may be infected with anthrax spores."*

39. (1) The power to make rules conferred by section 37, except clauses (k), (l) and (m) of sub section (2) thereof, and by "sections 38 and 38A"† is subject to the condition of the rules being made after previous publication.

Prior publication of rules.

* Act X. of 1897

† The words within quotations have been added by Act 2 of 1922.

‡ Certain words after this repealed by Act 2 of 1922 have been omitted.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897** as that after which a draft of rules proposed to be made under section 37, 38 and 38A† will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

40. Rules made under this Chapter shall be published in the local official Gazette or the *Gazette of India*, as the case may be, and shall thereupon have effect as if enacted in this Act

CHAPTER VIII.

PENALTIES AND PROCEDURE

Penalties,

41. If in any factory—

- (a) any person is employed or allowed to work contrary to any of the provisions of this Act ;
 - (b) any of the provisions of section 9 are not complied with ;
 - (c) latrine or urinal accommodation in accordance with the provisions of section 13 is not provided ;
 - (d) a supply of water for the persons employed is not maintained in accordance with the provisions of section 14 ;
 - (e) any door is constructed in contravention of section 15 ;
 - (f) any of the provisions of section 18, sub sections (1), (3) and (4), regarding fencing and the protection from danger of persons employed in attending to the "machinery, electrical fittings or boilers"* are not complied with ;
 - (g) any order of an inspector under section 10, section 11, section 12, section 16 or section 18, section 18A or 19B* is not complied with ;
 - (h) the register prescribed by section 35, is not kept up to date ;
 - (i) any of the provisions of section 36 are not complied with ,
 - (j) any notice or return required by this Act or by rules made thereunder to be furnished is not furnished ;
- the occupier and manager shall jointly and severally liable to a fine which may extend to "five hundred"* rupees ;

* The words within quotations have been added by Act 2 of 1922.

Provided that in cases where an appeal is allowed by section 50 no prosecution under clause (g) of this section shall be instituted until either the time prescribed by section 50 for the presentation of an appeal has expired or such appeal, if made, has been determined.

42. (1) Where the occupier or manager of a factory is charged with an offence against this Act, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like fine as if he were the occupier or manager, and the occupier or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the inspector at any time prior to the institution of the proceedings—

(a) that the occupier or manager of the factory has used all due diligence to enforce the execution of this Act, and

(b) by what person the offence has been committed and

(c) that it has been committed without the knowledge, consent or connivance of the occupier or manager, and in contravention of his orders,

the inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or manager of the factory, and such person shall be liable to the like fine as if he were the occupier or manager.

Penalties for certain offences

43. Any person who—

(a) wilfully obstructs an inspector in the exercise of any power under section 5, or fails to produce, on demand by an inspector, any registers or other documents kept in pursuance of this Act or the rules made thereunder, or conceals or prevents or attempts to prevent any person employed in a factory from appearing before or being examined by an inspector;

(δ) smokes, or uses a naked light, or causes or permits any such light to be used, in the immediate vicinity of any inflammable material in contravention of section 17, or

(c) does or omits to do any other act prohibited or prescribed by this Act or any order or rule made thereunder ;

shall be punishable with fine which may extend to " five hundred rupees."*

"43A. Where under this Act a Criminal Court imposes a fine or confirms in appeal, revision or otherwise, compensation out of a sentence of fine in respect of an offence causing bodily injury or death, the Court may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured or, in the case of death, to his legal representative

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal."*

44. Any person who knowingly uses or attempts to use, as a certificate granted to himself under section 7 or section 8, a certificate granted to another person under either of those sections, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with fine which may extend to twenty rupees

45. A person shall not be liable in respect of a repetition of the same kind of offence from day to day to any larger amount of fines than the highest fine fixed by this Act for the offence, except—

(a) where the repetition of the offence occurs after a prosecution has been instituted in respect of the original offence, or

(b) where the offence is one of employing or allowing to be employed two or more persons contrary to the provisions of this Act

46. If a child over the age of six years is found inside any room or part of a factory in which room or part children are employed and in which any manufacturing process or work incidental to any manufacturing process is being carried on, he shall, until the contrary is proved, be deemed to be employed in the factory.

* The words within quotations have been added by Act 2 of 1929.

47. (1) When an Act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, it shall be on the accused to prove that such person is not under or over such age.

(2) A declaration in writing by a certifying surgeon that he has personally examined a person employed in a factory and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of that person.

48. (1) No prosecution under this Act, except a prosecution under section 43, clause (b) shall be instituted except by or with the previous sanction of the inspector.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence against this Act or any rule or order thereunder, other than an offence against section 43, clause (b) "or section 44." *

49. No Court shall take cognizance of any offence against this Act or any rule or order thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

CHAPTER IX.

SUPPLEMENTAL PROVISIONS.

50. (1) Any person on whom an order under section 10, section 11, section 12, section 16, section 18 Appeals. "section 18A or section 19A" * has been served may, within fourteen days from the date of service of the order, appeal against such order to the Local Government or to such authority as it may appoint in this behalf, who may confirm, modify or reverse any such order.

(2) Where an inspector refuses to approve a system of shifts, he shall, if required by the manager of the factory, record his order of refusal with the reasons therefor and the manager of the factory may, within fourteen days from the date of such order, appeal against it to the Local Government or to such authority as it may appoint in this behalf, who may confirm, modify or reverse any such order.

* The words within quotations have been added by Act 2 of 1922

(3) In the case of any appeal under sub section (1) the appellate authority may, and if so requested by the appellant in the petition of appeal shall, hear the appeal with the aid of two assessors, one of whom shall be appointed by the said authority and the other by such body representing the interest of the industry concerned as the Local Government may in this behalf prescribe :

Provided that if no assessor is appointed by such body within the prescribed period, or if the assessor so appointed fails to attend at the time and place fixed for the hearing of the appeal, the said authority may proceed to hear the appeal without the aid of such assessor, or, if it thinks fit, without the aid of any assessor.

(4) Except in the case of an appeal against an order under section 19A, the appellate authority may, on the application of the appellant, suspend the operation of an order of the inspector pending the decision of the appeal. But where no such suspension has been granted, such order shall be complied with notwithstanding the fact that an appeal has been presented." *

51. (1) In respect of any area in which the hours of the day are not ordinarily reckoned according to local mean time, the times and hours referred to in section 2, sub-section (8), section 26 and section 36 shall be reckoned according to the standard of time ordinarily observed in such area.

(2) The Local Government may, by notification in the local official Gazette, direct that, for any specified area and during any specified months, for the morning and evening hours mentioned in section 23, clause (b) "and" * section 24, clause (a), such one of the following sets of morning and evening hours, as it deems suitable, reckoned according to the standard of time ordinarily observed in such area, shall be substituted, namely :

five o'clock in the morning and half past six o'clock in the evening ;

six o'clock in the morning and half past seven o'clock in the evening ,

half past six o'clock in the morning and eight o'clock in the evening ;

seven o'clock in the morning and half past eight o'clock in the evening.

52. In computing the hours referred to in section 23, clause (c), section 24, clause (b), "section 27, section 28 and section 31," * any interval by which work is interrupted for half an hour or more shall be excluded.

The words within quotations have been inserted by Act II of 1922.

53. The Local Government may, subject to the control of the Governor-General in Council, by special order in writing, direct, with respect to any factory or class of factories, that different branches or departments of work carried on in the same factory shall for all or any of the purposes of this Act be treated as if they were separate factories.

54. The Act shall apply to factories belonging to the Crown.
Application to Crown factories.

55. *Repealed by Act 2 of 1922.*

56. In case of any public emergency, the Local Government may, by an order in writing, exempt any factory from this Act to such extent and during such period as it thinks fit.
Power to exempt from Act.

57. The Governor-General in Council may, if he thinks fit, exercise any power which is by this Act conferred upon the Local Government.
Exercise of power by Governor-General in Council

58. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.
Protection to persons acting under Act.

59. *Repealed by Act 2 of 1922.*

SCHEDULE.*

(See section 19B).

PART I.

1. Works at a furnace when the reduction or treatment of zinc or lead ores is carried on ;

2. The manipulation, treatment, or reduction of ashes containing lead, the desilversing of lead or the melting of scrap lead or zinc ;

3. The manufacture of solder or alloys containing more than ten per cent of lead :

4. The manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate or silicate of lead :

5. Mixing or pasting in connection with the manufacture or repair of electric accumulators ;

* This schedule has been substituted by Act 2 of 1922

6. The cleaning of work-rooms where any of the processes aforesaid are carried on.

PART II

1. Where dust or fume from a lead compound is produced in the process, provision must be made for drawing the fume or dust away from the persons employed by means of an efficient exhaust draught so contrived as to operate on the dust or fume as nearly as may be at its point of origin.

2. The person employed must under go the prescribed medical examination at the prescribed intervals, and the prescribed record must be kept with respect to their health ;

3. No food, drink, or tobacco, shall be brought into, or consumed in, any room in which the process is carried on, and no person shall be allowed to remain in any such room during meal times.

4. Adequate protection clothing in a clean condition shall be provided by the employer and worn by the persons employed ;

5. Such suitable cloak-room, mess-room and washing accommodation as may be prescribed shall be provided for the use of the persons employed ,

6. The rooms in which the persons are employed, and all tools and apparatus used by them, shall be kept in a clean condition."

ACT No. XIII. OF 1911.

The Indian Christian Marriage (Amendment) Act, 1911.

[PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL]

Received His Excellency's assent on the 8th September, 1911.

*An Act further to amend the Indian Christian Marriage Act.
1872.*

WHEREAS it is expedient further to amend the Indian Christian Marriage Act, 1872;* It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Christian Marriage (Amendment) Act, 1911.

Substitution of new section 81, Act XV. of 1872. 2. For section 81 of the Indian Christian Marriage Act, 1872,* the following section shall be substituted, namely :

“ 81. The Registrar General of Births, Deaths and Marriages and the officers appointed under section 56 shall, at the end of every quarter in each year, select, from the certificates of marriages forwarded to them, respectively, during such quarter, the certificates of the marriages of which the Governor-General in Council may desire that evidence shall be transmitted to England, and shall send the same certificates, signed by them respectively, to the Secretary of State for India.

* Act XV. of 1872.

ACT NO IV OF 1911.

The Court-Fees (Amendment) Act, 1911.

[PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.]

Received His Excellency's assent on the 18th September, 1911.

An Act further to amend the Court-Fees Act, 1870.

WHEREAS it is expedient further to amend the Court-Fees Act, 1870,* It is hereby enacted as follows :—

Short title. 1. This Act may be called the Court-Fees (Amendment) Act, 1911

Amendment of Schedule II., Act VII. of 1870. 2. In Schedule II. of the Court-Fees Act, 1870 after article 1 the following article shall be inserted, namely :—

“ 1A. Application to any Civil Court that records may be called for from another Court. ”

When the Court grants the application and is of opinion that the transmission of such records involves the use of the post.

Twelve annas in addition to any fee levied on the application under clause (a), clause (b) or clause (d) of article 1 of this Schedule.”

* Act VII. of 1870.

ACT NO. XVI. OF 1911

Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's assent on the 18th September, 1911.

*An Act further to amend the Bengal, N.-W. P. and Assam
Civil Courts Act, 1887.*

Whereas it is expedient further to amend the Bengal, N. W. P. and Assam Civil Courts Act, 1887;* It is hereby enacted as follows :—

Short title, 1. This Act may be called the Bengal,
Agra and Assam Civil Courts (Amendment)
Act, 1911.

2. In sub-section (1) of section 1 of the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887,* for the words "North-Western Provinces" the word "Agra" shall be substituted.

Amendment of section
1 (1), Act XII., 1887.

3. In sub-section (3) of section 8 of the said Act, the words "and with the previous sanction of the Governor-General in Council" are hereby repealed.

Amendment of section
8 (3), Act XII., 1887.

4. In section 25 of the said Act, for the words "one hundred rupees" the words "two hundred and fifty rupees" shall be substituted.

Amendment of section
25, Act XII., 1887.

* Act XII. of 1887.

ACT NO. XVII. OF 1911.

The Indian Aircraft Act, 1911.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

Received His Excellency's assent on the 23rd September 1911.

An Act to control the manufacture, possession, use, sale, import and export of airships.

Whereas it is expedient to take power to control the manufacture, possession, use, sale, import and export of aircraft, It is hereby enacted as follows:—

Short title, extent and commencement. 1. (1) This Act may be called the Indian Airships Act, 1911.

(2) It extends to the whole of British India, including British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

(3) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, direct in this behalf.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "aircraft" means any machine fitted with mechanical or other means of propulsion designed to fly or float in the air without connection with the earth, and includes any part of any such machine,

(2) "export" means taking out of British India.

(3) "import" means bringing into British India: and

(4) "prescribed" means prescribed by rules under this Act

3. (1) The Governor-General in Council, or the Local Government subjects to the control of the Governor-General in Council, may make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license, granted as provided by such rules, the manufacture, possession, use, sale, import and export of aircrafts or any specified class of aircrafts.

(2) In particular and without prejudice to the generality of the foregoing power, the Governor General in Council or the

ACT NO. XVI. OF 1911

Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's assent on the 18th September, 1911.

*An Act further to amend the Bengal, N.-W. P. and Assam
Civil Courts Act, 1887.*

Whereas it is expedient further to amend the Bengal, N. W. P. and Assam Civil Courts Act, 1887;* It is hereby enacted as follows :—

Short title, 1. This Act may be called the Bengal,
Agra and Assam Civil Courts (Amendment)
Act, 1911.

2. In sub-section (1) of section 1 of the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887,* for the words "North-Western Provinces" the word "Agra" shall be substituted.

Amendment of section
1 (1), Act XII., 1887.

3. In sub-section (3) of section 8 of the said Act, the words "and with the previous sanction of the Governor-General in Council" are hereby repealed.

Amendment of section
8 (3), Act XII., 1887.

4. In section 25 of the said Act, for the words "one hundred rupees" the words "two hundred and fifty rupees" shall be substituted.

Amendment of section
25, Act XII., 1887.

* Act XII. of 1887.

ACT NO. XVII. OF 1911.

The Indian Aircraft Act, 1911.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

Received His Excellency's assent on the 23rd September 1911.

An Act to control the manufacture, possession, use, sale, import and export of airships.

Whereas it is expedient to take power to control the manufacture, possession, use, sale, import and export of aircraft; It is hereby enacted as follows:—

Short title, extent and commencement	1. (1) This Act may be called the Indian Airships Act, 1911.
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(2) It extends to the whole of British India, including British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

(3) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, direct in this behalf.

Definitions	2. In this Act, unless there is anything repugnant in the subject or context,—
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(1) "aircraft" means any machine fitted with mechanical or other means of propulsion designed to fly or float in the air with-out connection with the earth, and includes any part of any such machine;

(2) "export" means taking out of British India:

(3) "import" means bringing into British India: and

(4) "prescribed" means prescribed by rules under this Act

3. (1) The Governor-General in Council, or the Local Government subjects to the control of the Governor-General in Council, may make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license, granted as provided by such rules, the manufacture, possession, use, sale, import and export of aircrafts or any specified class of aircrafts.	3. (1) The Governor-General in Council, or the Local Government subjects to the control of the Governor-General in Council, may make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license, granted as provided by such rules, the manufacture, possession, use, sale, import and export of aircrafts or any specified class of aircrafts.
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(2) In particular and without prejudice to the generality of the foregoing power, the Governor General in Council or the

Local Government, as the case may be, may make rules for all or any of the following, among other matters, that is say—

- (a) the authority by which licenses may be granted ;
- (b) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses ,
- (c) the manner in which applicants for licenses shall be made, and the matters to be specified in such application ;
- (d) the forms in which, and conditions subject to which licenses may be granted .
- (e) the period for which licenses shall continue in force ;
- (f) the keeping by the holder of any such license of a record or account in the prescribed form of any thing done under such license, and the exhibition of such record or account when called upon to do so by any officer of Government specially empowered by any such rule in this behalf ,
- (g) the production by the person holding any license of such license, and the production or accounting for by him of the aircraft covered by such license, when called upon to do so by any officer of Government specially empowered by any such rule in this behalf ,
- (h) the prohibition either absolutely or subject to conditions, of the carrying in aircrafts of all or any of the following things, namely.—explosives, arms, ammunition, carrier-birds, photographic or wireless telegraphic apparatus or such other things as may hereafter be prescribed in this behalf , and
- (i) the carrying of a number or other means of identification by aircrafts and the registration of such number or means of identification.

(3) In making any rule under this section, other than under clause (i) thereof, the authority making the rule may direct that a breach of it shall be punishable with imprisonment, for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

4. (1) Notwithstanding anything in any rule made under section 3, the Governor-General in Council may, by notification in the *Gazette of India*, prohibit either absolutely or subject to conditions the import or export of all or any aircrafts or any class of aircrafts if, in his opinion, the issue of such a notification is expedient in the interest of the public safety or tranquility

(2) When a notification has been issued under sub-section (1),

the officers of sea customs shall have the same power in respect of aircrafts specified therein, and in respect of any vessel containing any such aircrafts as they have for the time being in respect of any article the import or export of which is prohibited or regulated by the law relating to sea customs and the vessel containing the same, and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

Power to Governor-General in Council to cancel or suspend licenses and to acquire aircrafts for the public service

5. (1) If the Governor-General in Council is of opinion, that in the interest of the public safety or tranquillity the issue of all or any of the following orders is expedient, he may by, notification in the *Gazette of India*—

- (i) cancel or suspend all any or licenses issued under this Act either absolutely or subject to such conditions as he may think fit to prescribe;
- (ii) direct that all or any aircrafts or any specified class of aircrafts shall be delivered either forthwith or within a specified time, to such authority as he may appoint in this behalf,
- (iii) direct that all or any aircrafts delivered to any authority in accordance with a direction under sub-clause (ii) shall be at the disposal of His Majesty for the public service.

(2) On the issue of a notification under clause (ii) of sub-section (1) any person in whose possession any aircraft referred to in such notification may be, shall forthwith, or within the time specified in such notification, deliver the same to the authority specified therein.

(3) On the issue of a notification under clause (iii) of sub-section (1) in respect of any aircraft, the owner thereof shall be paid such compensation as may be determined by such officer as the Local Government may appoint in this behalf.

(4) In determining the amount of any compensation payable under sub-section (3), such officer shall have regard to any rules regulating the assessment and payment of compensation which the Governor-General in Council or the Local Government, subject to the control of the Governor-General in Council may make in this behalf.

Power to make rules conferring powers of inspection, search, seizure, detention and removal.

6 (1) The Governor-General in Council, or the Local Government subject to the control of the Governor-General in Council, may make rules consistent with this Act authorising any officer—

- (a) to enter, inspect and examine any place, carriage or vessel in which an aircraft is being manufactured, possessed, used, sold, imported or exported under a license granted under this Act or in which he has reason to believe that an aircraft has been or is being manufactured possessed, used, sold, imported or exported in contravention of this Act or of any rule made thereunder,
 - (b) to search for aircraft therein,
 - (c) to seize, detain and remove any aircraft found therein, and
 - (d) to search any aircraft for explosives, arms, ammunition, carrier birds, photographic or wireless telegraphic apparatus or such other things as may hereafter be prescribed in this behalf, and to seize, detain and remove any such things if found thereon.
- (2) The provisions of the Code of Criminal Procedure, 1898,* relating to searches under that Code shall, so far as the same are applicable, apply to searches by officers authorised by rules under section
- 7 (1)*** The Governor General in Council may, by notification in the Gazette of India, prohibit or regulate the navigation of aircraft over, or the entry of aircraft by flight into, British India or port thereof, including the territorial waters adjacent thereto.
- (2) Subject to the control of the Governor General in Council the Local Government of a province may, by notification in the official Gazette, exercise in respect of the province the like powers of prohibiting or regulating navigation as are conferred by section (1) on the Governor General in Council
- (3) Any notification issued under sub section (1) or (2) may apply either to all aircraft or to any specified class or description of aircraft, and may prohibit navigation or entry as aforesaid, as the case may be, either at all times or at specified times or on specified occasions and either absolutely or subject to specified conditions or conditions, and such conditions may, without prejudice to the generality of the foregoing provision, require any aircraft—
- (a) to display specified signals or marks,
 - (b) to comply with specified signal in a specified manner,
 - (c) to land within a specified area or at a specified place, and
 - (d) in the case of aircraft entering British India by flight, also to enter at a specified place.

Act V of 1898

The words within quotations and sections 7 and 7A have been substituted by Act 15 of 1914

7A.* (1) Whenever an air craft contravenes the conditions of a notification issued under section 7 requiring it to comply with specified signals in a specified manner, any person appointed in this behalf by the Governor General in Council may fire at or into such air craft, and use any and every other means necessary to compel compliance.

(2) The Governor General in Council may delegate to any authority the power of making appointments under sub-section (1) " *"

Penalty for certain offences

8. Whoever in contravention of—

- (1) a rule made under section 3, sub-section (2), clause (h), carries in an aircraft, explosives, fire-arms, ammunition, carrier-birds, photographic or wireless telegraphic apparatus or such other things as may hereafter be prescribed in this behalf, or
- (2) a notification issued under section 4, imports or exports an aircraft, or
- (3) a notification issued under section 5, sub-section (1), clause (z), does or abstains from doing any act, or
- (4) a notification issued under section 5, sub-section (1), clause (z), fails to deliver to the proper authority any aircraft in his possession, or
- (5) a notification issued under section 7, does or abstains from doing any act unless, in case of contravening a condition relating to navigation or landing he proves that he was compelled thereto by stress of weather or other circumstances over which he had no control." †

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

9. Whoever, in any case not provided for in section 8, manufactures, possesses, uses, sells, imports, or exports an aircraft in contravention of this Act or of the conditions of a license granted thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

10. When a person is convicted of an offence punishable under this Act or * the rules made thereunder, the Court before which he is convicted may direct that the aircraft or the thing (if any) in respect of which the offence has been committed, or any part of such thing, shall be forfeited to His Majesty.

* The words within quotations and section 7 and 7A have been substituted by Act 15 of 1914

† Certain words after this repealed by Act 17 of 1914 have been omitted.

11. Whoever abets the commission of an offence punishable under this Act, or the rules made thereunder, or attempts to commit any such offence and in such attempt does any act towards the commission of the same, shall be punishable as if he had committed the offence

Saving for acts done by Government or Government officers

12. Nothing in this Act shall apply to the manufacture, possession, use, sale, import or export of any aircraft—

(a) by order of the Government, or

(b) by any person employed under the Government in the execution of this Act or “by” * a public servant in the course of his employment or duty as such.

13. (1) The power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication.

(2) All rules made under this Act shall be published in the *Gazette of India* or the local official Gazette, as the case may be, and shall thereupon have effect as if enacted in this Act

14 No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Saving for acts done in good faith under Act

* The words within quotations has been substituted by Act 10 of 1914.

ACT NO. XVIII OF 1911.

The Calcutta Improvement (Appeals) Act, 1911.

[PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL]

Revised His Excellency's assent on the 23rd September, 1911.

An Act to modify certain provisions of the Calcutta Improvement Act, 1911.

WHEREAS it is expedient to modify the provisions of the Calcutta Improvement Act, 1911,* so as to provide in certain cases for an appeal to the High Court from the awards of the Tribunal constituted under that Act, It is hereby enacted as follows :—

Short title, **1.** This Act may be called the Calcutta Improvement (Appeals) Act, 1911,

Definitions, **2** In this Act—

(1) "Court" means the High Court of Judicature at Fort William in Bengal: and

(2) "Tribunal" has the same meaning as in the Calcutta Improvement Act, 1911 *

3, (1) Notwithstanding anything contained in the Calcutta Improvement Act, 1911,* an appeal shall lie to the Court in any of the following cases, namely :—

Appeal from award of the Tribunal.

(a) where the decision is that of the president of the Tribunal sitting alone in pursuance of clause (b) of section 77 of the said Act :

(b) where the decision is that of the Tribunal, and

(i) the President of the Tribunal grants a certificate that the case is a fit one for appeal, or

(ii) the Courts grants special leave to appeal :

Provided that the Court shall not grant such special leave unless the President has refused to grant a certificate under sub-clause (i) and the amount in dispute is five thousand rupees or upwards

* Ben. Act V of 1911.

(2) An appeal under clause (b) of sub-section (1) shall only lie on the following grounds, namely—

- (i) the decision being contrary to law or to some usage having the force of law ,
- (ii) the decision having failed to determine some material issue of law or usage having the force of law ,
- (iii) a substantial error or defect in the procedure provided by the said Act which may possibly have produced error or defect in the decision of the case upon the merits.

4. Subject to the provisions of section 38, * the provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decrees shall, so far as may be, apply to appeals under this Act.

5. The Chief judge of the Court of Small Causes of Calcutta shall, on application, execute any order passed by the Court on appeal as if it was a decree made by himself

6. An appeal under section 3 shall be deemed to be an appeal under the Code of Civil Procedure, 1908,† within the meaning of No 156 of the First Schedule to the Indian Limitation Act, 1908†

* Act V, 1908.

† Act IX of 1908.

ACT NO. XIX OF 1911.

The Cowasjee Jahangir Baronetcy Act, 1911.

[PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL]

Received His Excellency's Assent on the 23rd of September, 1911.

An Act for settling an annuity of fifty thousand rupees payable by the Secretary of State in Council of India in perpetuity and being of the value of fifteen lakhs of rupees and securities, being Promissory notes of the Government of India or Bonds of the Municipal Corporation of the City of Bombay, the Trustees of the Port of Bombay and the Trustees for the Improvement of the City of Bombay, of the nominal value of ten lakhs of rupees and producing a further annual income of about forty thousand rupees, and two Mansion-houses and hereditaments called respectively "Readymoney House" and "Fort Mansion" in the Islands of Bombay, the property of Sir Cowasjee Jahangir, Baronet, so as to accompany and support the title and dignity of a Baronet lately conferred on him by His late Majesty King Edward VII. to hold to him and the heirs male of his body lawfully begotten and to be begotten and for other purposes connected therewith.

WHEREAS by Letters Patent of His Majesty King Edward VII by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, dated at Westminster on or about the 16th day of July in the eighth year of His Reign, and by Warrant under the King's sign-manual, His said Majesty made known that He of His special Grace, certain knowledge and mere motion, had erected, appointed and created His trusty and well beloved Sir Cowasjee Jahangir of Bombay Knight, to the dignity, state and decree of a Baronet, and him, the said Sir Cowasjee Jahangir, for His Majestys, His heirs and successors He did erect appoint and create a Baronet, of the United Kingdom of Great Britan and Ireland by the said Letters Patent, to hold to him and the heirs male of his body lawfully begotten and to be begotten ;

and whereas the said Sir Cowasjee Jahangir is desirous of settling in perpetuity such property on himself and the heirs male of his body who may succeed to the said Baronetcy as shall be adequate to support the dignity of the title conferred on him and them as aforesaid ;

and whereas the said Sir Cowasjee Jehangir is seised of two Mansion-houses and hereditaments both situate in the Island of Bombay called respectively "Readymoney House" and "Fort Mansion" and has an absolute estate of inheritance therein and is entitled, by an indenture made the 20th day of October in the year one thousand eight hundred and seventy-seven, to an annuity of fifty thousand rupees payable by the Secretary of State in Council of India in perpetuity and being of the value of fifteen lakhs of rupees and is desirous of settling the said annuity of fifty thousand rupees and securities, being promissory notes of the Government of India or bonds of the Municipal Corporation of the City of Bombay, the Trustees of the Port of Bombay and the Trustees for the Improvement of the City of Bombay, of the nominal value of ten lakhs of rupees and producing a further annual income of about forty thousand rupees and the said Mansion houses and hereditaments to the uses upon the trusts and for the purposes hereinafter limited and declared, concurring the same respectively ,

and whereas the said Sir Cowasjee Jehangir is desirous that the heirs male of his body, to whom the said title and dignity of Baronet shall descend, shall descend, shall, at the time of such descent upon them respectively, take and bear the names of "Cowasjee Jehangir" in lieu of any other name or names whatever which they respectively may bear at the time of such descent on them respectively , and he is also desirous that Accountant-General, Bombay, the Collector of Bombay and the Chief Presidency Magistrate, Bombay, all for the time being shall be trustees of the aforesaid annuity, securities, Mansion-houses and hereditaments, and be likewise the trustees for carrying into execution the general purposes and powers of this Act, with relation to the said annuity and securities and also with relation to the said Mansion-houses and hereditaments ,

and whereas the said Sir Cowasjee Jehangir is desirous of settling the said annuity and the said securities and the said Mansion-houses and hereditaments so as aforesaid agreed to be settled by him for the purpose of supporting the dignity of the said Baronetcy, to the uses, upon the trusts and for the purposes hereinafter limited and declared concerning the same respectively ;

and whereas it is expedient that the aforesaid purposes should be effected by an Act of the Council of the Governor-General for making Laws and Regulation ,

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Cowasjee Jehangir Baronetcy Act, 1911.

2. Lionel Edward Pritchard, Esquire, the Accountant-General of Bombay, Edward Little Sale, Esquire, the Collector of Bombay and Arthur Henry Southcote Aston, Esquire, the Chief Presidency Magistrate of Bombay, and their successors, and Accountant-General of Bombay, the Collector of Bombay, and the Chief Presidency Magistrate of Bombay, all for the time being, shall be and they are hereby created a Corporation with perpetual succession and a common seal under the style and title of "The Trustees of the Sir Cowasjee Jehangir Baronetcy," and the said Lionel Edward Pritchard, Esquire, Edward Little Sale, Esquire, and Arthur Henry Southcote Aston, Esquire, and their said successors (hereinafter styled "The Corporation"), shall be and they are hereby constituted, as such Corporation, the Trustees for executing the powers and purposes of this Act.

3. The heirs male of the body of Sir Cowasjee Jehangir to whom the said title and dignity shall descend, pursuant to the limitations of the Patent whereby the said dignity has been granted, shall take upon themselves respectively the names of "Cowasjee Jehangir" in lieu and in the place of any other name or names whatever, and such heirs male, severally and successively, shall be called by the names of "Cowasjee Jehangir" and by those names shall name, style and write themselves, respectively, upon all occasion whatever.

4. Immediately from and after the passing of this Act, the said annuity of fifty thousand rupees and securities, being promissory notes of the Government of India or bonds of the Municipal Corporation of the City of Bombay the Trustees of the Port of Bombay and the Trustees for the Improvement of the City of Bombay, of the nominal value of ten lakhs of rupees and producing a further annual income of about forty thousand rupees shall be assigned and transferred into the name of the Corporation, who shall hold the same upon the trusts and for the purposes hereinafter expressed concerning the same, (that is to say), upon trust to continue to hold the said annuity and securities and as the said securities until such time as the same shall be discharged by the Secretary of State in Council of India or the Municipal Corporation of the City of Bombay or the Trustees of the Port of Bombay or the Trustees for the Improvement of the City of Bombay, as the case may be, or shall be sold by the said Trustees with the previous consent in writing of the person who shall for the time being in the enjoyment of the income of the said securities and on such discharge or sale to invest the sum to be received on such occasion, with the like consent of the person for the time being in the enjoyment of the said income, in or on any stocks, funds, or securities of, or the principal and interest of

which is guaranteed by, the Government of the United Kingdom of Great Britain and Ireland or the Government of India, and in like manner, as often as the same shall become necessary, to alter, vary and change with like consent such stocks, funds and securities for others of the same or like nature, and upon further trust from time to time to pay and apply the said annuity of fifty thousand rupees and the dividends, interest and annual income of the said promissory notes, bonds, stocks, funds and securities unto and for the benefit of the said Sir Cowasjee Jehangir or the person who, as heir male of his body, shall for the time being have succeeded to, and be in the enjoyment of, the title of Baronet conferred by the said Letters Patent aforesaid, notwithstanding any rule of law or equity to contrary, and upon failure and in default of heirs male of the body of the said Sir Cowasjee Jehangir, to whom the same title and dignity of Baronet may descend, upon trust for the said Sir Cowasjee Jehangir, his executors, administrators and assigns, which ultimate remainder or reversion it shall be lawful for the said Sir Cowasjee Jehangir, his executors, administrators and assigns, at any time or times, during the continuance of the said title and dignity of Baronet and until there shall be a failure of heirs male of the body of the said Sir Cowasjee Jehangir, to assign, transfer, bequeath and dispose of by deed or will or other assurance or assurances.

5. The Corporation during the minority of any person for the time being entitled to and in enjoyment of the said dignity of Baronet under the limitations of the said Letters Patent shall pay and apply for and towards the maintenance, education and benefit of such Baronet, in each and every year during such his minority as aforesaid, so much only of the annual interest, dividends and income of the said Trust Funds and premises as the Corporation shall in their discretion think proper, and shall from time to time invest the residue of the said annual interest, dividends, and income of the said Trust Funds and premises in and upon stocks, funds and securities of, or the principal and interest of which is guaranteed by, the Government of the United Kingdom of Great Britain and Ireland or the Government of India, and shall upon such Baronet attaining his majority pay over, transfer and assign to him or as he shall direct and for his absolute benefit the said investments and all accumulations thereof.

6. The Mansion houses and other hereditaments called respectively "Readymoney House" and "Fort Mansion" situate in the Island of Bombay, with their rights, members, and appurtenances, of which the said Sir Cowasjee Jehangir is seised to him and his heirs, shall, by force of this Act, from and immediately after the passing thereof, stand limited unto and to the use of the Corporation upon the trusts hereinafter declared, that is to say,

upon trust for the said Sir Cowasjee Jehangir for and during the term of his natural life and from and immediately after his decease upon trust for the heirs male of the body of the said Sir Cowasjee who may succeed to the title of Baronet conferred by the said Letters Patent as aforesaid and, upon failure and default of heirs male of the body of the said Sir Cowasjee Jehangir to whom the same title and dignity of Baronet may descend as aforesaid, upon trust for the said Sir Cowasjee Jehangir, his heirs and assigns for ever, which ultimate remainder or reversion it shall be lawful for the said Sir Cowasjee Jehangir and his heirs and assigns at any time or times during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs Male of the body of the said Sir Cowasjee Jehangir as aforesaid, to grant, convey, devise and dispose of by deed or will or by any other assurances by which such an estate in remainder or reversion is capable by law of being conveyed or disposed of by Parsee inhabitants of British India.

7. Provided always that in case any person to whom for the Devolution of interest where beneficiary refuse neglects or discontinues to use the names "Cowasjee Jehangir" time being the said title of Baronet shall have descended shall for the space of one whole year after he shall by virtue of this Act become entitled to the said annuity of fifty thousand rupees and the said dividends, interest and income of the said promissory notes bonds stocks, funds and securities, or to the possession or receipt of the rents and profits of the said hereditaments of being then under age shall for the space of one whole year after he shall attain the age of twenty-one years refuse or neglect to use the names of "Cowasjee Jehangir" as hereinbefore enacted or in case any person having so used those names shall, for the space of six calendar months consecutively during his natural life, discontinue so to use such names, then, in any or either of the said cases, the estate or interest in the said trust funds and premises of the person who shall so refuse or neglect to use or having used shall so discontinue to use the said names of "Cowasjee Jehangir" shall during the remainder of his respective natural life be suspended; and that, during any and every such suspension the said annuity of fifty thousand rupees and the interest, dividends and income of the said promissory notes, bonds, stocks, funds and securities, and the possession and actual occupation, and also the rents and profits of the said hereditaments, shall devolve and belong to the person who would for the time being be entitled to succeed to the said title of Baronet next after the person so refusing or discontinuing to use the said name or in default of any such person to the person or persons who would be entitled to the same in case there had been a total failure of issue male of the said Sir Cowasjee Jehangir.

8 It shall be lawful for the said Sir Cowasjee Jehangir and Power to charge settled for any person to whom the said title of property for jointure of Baronet shall from time to time descend widow, when in the actual enjoyment of the said title, and who shall not refuse neglect or discontinue to use, for the respective periods hereinbefore in that behalf mentioned the said names of "Cowasjee Jehangir" as hereinbefore enacted, either before or after his marriage with any woman or women by any deed or deeds, writing or writings with or without power of revocation to be by him sealed and delivered in the presence of two or more credible witnesses (but subject and without prejudice to the annuity or annuities if any which shall be then subsisting and payable by virtue of any appointment made under and in pursuance of this present power), to limit and appoint into any woman or women whom he shall marry for her or their life or lives, and for her or their jointure or jointures in bar of dower or other legal or customary rights any annuity or yearly sum not exceeding the sum of ten thousand rupees, clear of all taxes, charges and deductions whatsoever to commence and take effect immediately after the decease of the person limiting or appointing the same and to be issuing and payable out of the said annuity of fifty thousand rupees and the dividends, interest and annual income of the said promissory notes, bonds, stocks, funds and securities, and to be paid and payable by equal half-yearly payments on the thirtieth day of June, and the thirty first day of December, the first of the said half-yearly payments to be made on the half-yearly day which shall first happen after the decease of the person who shall have appointed such annuity or yearly income, Provided always that in case any person on whom such title shall descend shall have refused or neglected to use the names of "Cowasjee Jehangir" or shall discontinue to use such names for six calendar months consecutively during his natural life, every such limitation and appointment, either previously or afterwards made by him, shall be and become inoperative and invalid, and no such annuity thereby created or appointed shall take effect or be payable or chargeable, on the said trust fund and premises notwithstanding any such limitation or appointment.

9. Provided always that the said annuity of fifty thousand rupees and the interest, dividends and annual income of the said promissory notes, bonds, stocks, funds and securities shall not at one and the same time be subject to the payment of more than the yearly sum of twenty thousand rupees for or in respect of an jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that if by virtue of or under the same the said annuity of fifty thousand rupees and interest, dividends and annual income would, in case this present provision had not been inserted be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of twenty thousand rupees, the yearly sum which shall occasion such excess

or such part thereof as shall occasion the same shall during the time of such excess abate and not be payable.

10. The said Mansion houses and hereditaments called respectively "Readymoney House" and "Fort Mansion" with their rights, members and appurtenances, shall not be subject to any right, inheritance or estate whatever which the wife of the said Sir Cowasjee Jehangir, or the wives of any of the person who shall successively become entitled thereto, may or might have or claim to have in the said Mansion-houses and hereditaments under any custom or law of the Parsees, or otherwise howsoever.

11. Save as regards the ultimate remainders or reversion here in before limited in trust for the said Sir Cowasjee Jehangir, his heirs, executors administrators and assigns respectively, so long as the said title and dignity of Baronet shall endure, and until there shall be a failure of heirs male of the body of the said Sir Cowasjee Jehangir, to whom the said title and dignity of Baronet might descend pursuant to the limitations of the Patent whereby the said dignity was granted, neither the said Sir Cowasjee Jehangir nor any of the heirs male of his body in whose favour trusts are hereinbefore declared of the said annuity of fifty thousand rupees and the interest, dividends and annual income of the said promissory notes, bonds stocks, funds and securities or of the said Mansion-houses and hereditaments called respectively "Readymoney House" and "Fort Mansion shall transfer, dispose of, alien, convey, charge or encumber the said trust funds and premises or any part thereof, or the interest dividends and annual income thereof, or any part thereof, or the said Mansion-houses or hereditaments, or any part thereof for any greater or larger estate, interest or time than during his natural life, and for such portion thereof only as he shall continue to use the names of "Cowasjee Jehangir", nor shall any such person as aforesaid either alone or jointly with any other or others of them or with any other person or persons whomsoever have any power to discontinue or bar the estates tail hereinbefore limited in trust for the heirs male of the body of the said Sir Cowasjee Jehangir, or any estate or interest hereby or herein created or declared in trust or for the benefit of any person or persons for whose benefit trusts are declared by this Act of the said annuity of fifty thousand rupees and the interest, dividends and annual income of the said promissory notes, bonds, stocks, funds and securities, or of the said Mansion-houses, hereditaments and the rents and profits thereof, or to prevent any such person or persons from succeeding to, holding or enjoying, receiving or taking the same premises according to the true intent of the provisions hereinbefore contained, nor shall the same premises or any of them be held by any Court of law or equity to have vested in any such person as aforesaid for any greater estate or interest than during his life, and only during such portion

thereof as he shall continue to use the names of 'Cowasjee Jehangir', and every attempt to make any conveyance, assignment or assurance contrary to the intention of this Act shall be, and is hereby, declared and enacted to be void.

12. If at any time or times hereafter the said Sir Cowasjee Jehangir or any other person or persons shall be desirous of augmenting the funds and securities for the time being subject to the trusts of this Act, and for that purpose and with that intent, shall at his or her own expense transfer and deliver to the Corporation any stocks, funds or securities of, or the principal and interest of which is guaranteed by, the Government of the United Kingdom of Great Britain and Ireland or the Government of India, then and as often as the same shall happen the said Corporation may, with the previous consent of the Governor of Bombay in Council, accept such stocks, funds and securities, and the same shall thenceforth be held by the said Corporation upon the same trusts as are declared by this Act with regard to the said trust funds and premises or upon such of them as shall then be subsisting and capable of taking effect, Provided always that the total amount of the promissory notes, bonds, stocks, funds and securities for the time being subject to the trusts of this Act, shall at no time exceed fifty lakhs of rupees

13. The said Mansion houses called respectively "Ready-money House" and "Fort Mansion," and all the out-buildings and offices thereof, and also all other messuages, or buildings, which may from time to time be added thereto, or substituted therefor, or which may hereafter become subject to any of the trusts of this Act, shall be kept insured in the name of the said Corporation, or of the persons for the time being constituting the same against loss or damage by fire, in such sum as the Corporation may deem adequate by, and at the expense of the person, for the time being in the enjoyment of the said title of Baronet, and in case any such person shall at any time neglect or refuse to insure the same in such amount, it shall be lawful for the Corporation to get the same insured, and to apply any portion of the income of the funds for the time being subject to the trusts of this Act to that purpose, and in case the hereditaments and premises so insured, or any part thereof shall be destroyed or damaged, by fire, the moneys received in respect of such insurance, shall either be laid out under the direction of the said Corporation in re-building, or reinstating the hereditaments and premises so destroyed, or damaged by fire, or, upon the application of the person for the time being entitled to, and in the enjoyment of, the said dignity of Baronet, and with the consent of the Governor of Bombay in Council, to be notified by a resolution of the Government of Bombay, may be laid out in

the purchase of other hereditaments in the Presidency of Bombay suitable for the support of the dignity of said title, in which last-mentioned case the hereditaments so purchased shall immediately from and after the completion of the purchase thereof be and become subject to the uses and trusts of this Act, or such of them, as shall then be subsisting, and capable of taking effect in the same manner, and to the same effect, as if such last-mentioned hereditaments had expressly been named, or described in section 6. Until such insurance moneys shall have been so laid out, the Corporation may invest the same or any part thereof, in any of the securities specified in section 17.

14 The said Mansion-houses and premises called respectively "Readymoney House" and "Fort Mansion," and all additions thereto, and also all other messuages and hereditaments which from time to time may be or become subject to the trusts declared by this Act concerning the said Mansion-houses and premises, shall be kept in good repair, order and condition by and at the expense of the person for the time being in the enjoyment of the title of Baronet conferred by the said Letters Patent, and in case any such person shall at any time neglect or refuse to keep the said Mansion-houses, hereditaments and premises or any of them in such good order and condition, it shall be lawful for the Corporation to keep or cause the same to be kept in good order and condition to defray the expense incident thereto from the income of the funds for the time being subject to the provisions of this Act.

15. The Corporation shall hold the said Mansion-houses and hereditaments known respectively as "Readymoney House" and "Fort Mansion," and also any order hereditaments for the time being vested in them by virtue of this Act, upon trust with the consent of the person entitled to and in the actual enjoyment of the title of Baronet conferred by the said Letters Patent, and with the consent of the Governor of Bombay in Council to be notified as aforesaid, to sell or exchange for other lands or hereditaments in the Presidency of Bombay the said Mansion-houses and hereditaments, and also any other such hereditaments as aforesaid, and upon any such exchange to give or receive any money for equality of exchange.

16. And it is hereby declared that any such sale as aforesaid may be made either by public auction or private contract, and that the Corporation may make any stipulations as to title or evidence or commencement of title or otherwise in any conditions of sale or contract for sale or exchange of the said hereditaments or any part thereof, and may buy in or rescind or vary any contract for sale or exchange and resell or

re-exchange without being responsible for any loss occasioned thereby.

17. And it is hereby declared that the said Corporation shall receive all moneys which may become payable upon any such sale or exchange as aforesaid, and with all convenient speed invest the same either in the purchase of any stocks, funds or securities of, or the principal and interest of which is guaranteed by the Government of the United Kingdom of Great Britain and Ireland or the Government of India, or in the purchase of other lands or hereditaments situate in the Presidency of Bombay and suitable for the support of the dignity of the said title: Provided that every such purchase of lands or hereditaments be made with the consent in writing of the person then entitled to and in the actual enjoyment of the said title

18. And it is hereby declared that the stocks, funds and securities and the lands or hereditaments, respectively, so to be purchased or taken in exchange as aforesaid shall from and immediately after the completion of the purchase or exchange thereof, respectively, be held upon the trusts in and by this Act declared of and concerning the said trust funds and the said Mansion-houses and premises respectively or such of them, respectively, as may then be subsisting and capable of taking effect

19. It shall be lawful for the Corporation out of the money which shall come to their hands by virtue of the trusts and provisions of this Act to retain and reimburse themselves all costs, damages and expenses which they shall or may sustain, expend or disburse in or about the execution of the aforesaid powers, trusts and provision, or in relation thereto.

20. Saving always to the King's Most Excellent Majesty, His heirs and successors, and to all and every other person and persons, bodies politic and corporate, and his, her and their respective heirs, successors, executors and administrators and every of them (other than and except the said Sir Cowasjee Jehangir, his devisees, heirs and assignes), all such estates, right, title, interest, claim and demand whatsoever of, into, out of or upon the said Mansion-houses and hereditaments called respectively "Rreadymoney House" and "Fort Mansion," or any part or parts thereof, as they, every or any of them had before the passing of this Act had, not been passed.

ACT NO. I. OF 1912, The Indian Stamp (Amendment) Act, 1912.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

*Received the assent of the Governor General
on the 1st March 1912.*

An Act further to amend the Indian Stamp Act, 1899.

WHEREAS it is expedient further to amend the Indian Stamp Act,* 1899, it is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Stamp (Amendment) Act, 1912

2. In article No. 13 of Schedule I. of the Indian Stamp Act, 1899, (hereinafter referred to as the said Act,) Amendment of Act II, 1899, Schedule I, as amended by the Indian Stamp (Amendment Act 1910,† for clause (b) the following shall be substituted, namely:—

				if, drawn singly	if drawn in set of two, for each part of the set	if drawn in set of three, for each part of the set
				Rs As P.	Rs A. P.	Rs A P
(b) where payable otherwise than on demand, more than one year after date or sight—						
Rs						
if the amount of the bill or note does not exceed			200	0 3 0	0 2 0	0 1 0
if it exceeds Rs 200 and does not exceed			400	0 6 0	0 3 0	0 2 0
Ditto	400	ditto	600	0 9 0	0 5 0	0 3 0
Ditto	600	ditto	800	0 12 0	0 6 0	0 4 0
Ditto	800	ditto	1,000	0 15 0	0 8 0	0 5 0
Ditto	1,000	ditto	1,200	1 2 0	0 9 0	0 6 0
Ditto	1,200	ditto	1,600	1 8 0	0 12 0	0 8 0
Ditto	1,600	ditto	2,500	2 4 0	1 2 0	0 12 0
Ditto	2,500	ditto	5,000	4 8 0	2 4 0	1 8 0
Ditto	5,000	ditto	7,500	6 12 0	3 6 0	2 4 0
Ditto	7,500	ditto	10,000	9 0 0	4 8 0	3 0 0
Ditto	10,000	ditto	15,000	13 8 0	6 12 0	4 8 0
Ditto	15,000	ditto	20,000	18 0 0	9 0 0	6 0 0
Ditto	20,000	ditto	25,000	22 8 0	11 4 0	7 8 0
Ditto	25,000	ditto	30,000	27 0 0	13 8 0	9 0 0
and for every additional Rs 10 000 or part thereof in excess of Rs 30 000.				9 0 0	9 8 0	3 0 0

3 In section 23A, sub-section (1) of the said Act, for the words and figure "Article No. 5 (b)," the words and figure "Article No 5 (c)" shall be substituted.

* Act II. of 1899

† Act VI. of 1910

ACT NO. II. OF 1912.
The Co-operative Societies Act, 1912,

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL
Received the assent of the Governor-General on the 1st March 1912.

An Act to amend the Law relating to Co-operative Societies.

WHEREAS it is expedient further to facilitate the formation of Co-operative Societies for the promotion of thrift and self help among agriculturists, artisans and persons of limited means, and for that purpose to amend the law relating to Co operative Societies ; It is hereby enacted as follows :—

Preliminary

Sort-title and extent. **1. (1)** This Act may be called the Co-operative Societies Act, 1912, and

(2) It extends to the whole of British India.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

(a) “ by-laws ” means the registered by-laws for the time being in force and includes a registered amendment of the by-laws .

(b) “ committee ” means the governing body of a registered society to whom the management of its affairs is entrusted .

(c) “ member ” includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules .

(d) “ officer ” includes a chairman, secretary, treasurer, member of committee, or other person empowered under the rules or the by laws to give directions in regard to the business of the society :

(e) “ registered society ” means a society registered or deemed to be registered under this Act :

(f) “ registrar ” means a person appointed to perform the duties of a Registrar of Co operative Societies under this Act and

(g) “ rules ” means rules made under this Act.

Registration.

3. The Local Government may appoint a person to be Registrar of Co operative Societies for the Province or any portion of it, and may appoint persons to assist such Registrar, and may, by general or special order, confer on any such persons all or any of the powers of a Registrar under this Act.

4 Subject to the provisions hereinafter contained, a society which has as its object the promotion of the economic interests of its members in accordance with co operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act with or without limited liability :

Provided that unless the Local Government by general or special order otherwise directs—

- (1) the liability of a society of which a member is a registered society shall be limited ,
- (2) the liability of a society of which the object is the creation of funds to be lent to its members, and of which the majority of the members are agriculturists, and of which no member is a registered society, shall be unlimited.

Restrictions on interest of member of society with limited liability and a share capital

5 Where the liability of the members of a society is limited by shares, no member other than a registered society shall—

- (a) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules , or
- (b) have or claim any interest in the shares of the society exceeding one thousand rupees.

6 (1) No society, other than a society of which a member is a registered society, shall be registered under this Act which does not consist of at least ten persons above the age of eighteen years and, where the object of the society is the creation of funds to be lent to its members, unless such persons—

Conditions of registration

- (a) reside in the same town or village or in the same group of villages, or,
- (b) save where the Registrar otherwise directs, are members of the same tribe, class, caste or occupation.

(2) The word " limited " shall be the last word in the name of every society with limited liability registered under this Act.

7. When any question arises whether for the purposes of this Act a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class, caste or occupation, the question shall be decided by the Registrar; whose decision shall be final.

Power of Registrar to decide certain questions

Application for Registration.

8. (1) For purposes of registration an application to register shall be made to the Registrar.

(2) The application shall be signed—

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of section 6, sub-section (1), and

(b) in the case of a society of which a member is a registered society, by a duly authorised person on behalf of every such registered society, and, where all the members of the society are not registered societies, by ten other members or, when there are less than ten other members, by all of them.

(3) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

9. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by laws are not contrary to the Act or to the rules, he may, if he thinks fit, register the society and its by laws

Registration

10 A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled,

Evidence of registration

11. (1) No amendment of the by-laws of a registered society shall be valid until the same has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar.

Amendment of the by-laws of registered society.

(2) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may, if he thinks fit, register the amendment.

(3) When the Registrar registers an amendment of the by laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered,

Rights and liabilities of members

12. No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed by the rules or by-laws.

13 (1) Where the liability of the members of a registered society is not limited by shares, each member shall, notwithstanding the amount of his interest in the capital, have one vote only as a member in the affairs of the society.

(2) Where the liability of the members of a registered society is limited by shares, each member shall have as many votes as may be prescribed by the by-laws.

(3) A registered society which has invested any part of its funds in the shares of any other registered society may appoint as its proxy, for the purpose of voting in the affairs of such other registered society, any one of its members.

14 (1) The transfer or charge of the share or interest of a member in the capital of a registered society, shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules,

(2) In case of a society registered with unlimited liability a member shall not transfer any share held by him or his interest in the capital of the society or any part thereof unless—

(a) he has held such share or interest for not less than one year, and

(b) the transfer or charge is made to the society or to a member of the society—

Duties of registered societies.

15 Every registered society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof

16. Every registered society shall keep a copy of this Act and of the rules governing such society, and of its by-laws open to inspection free of charge at all reasonable times at the registered address of the society.

17 (1) The Registrar shall audit or cause to be audited by some person authorized by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the society.

(3) The Registrar, the Collector or any person authorised by general or special order in writing in this behalf by the Registrar shall at all times have access to all the books, accounts, papers and securities of a society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection may require.

Privileges of registered societies.

18 The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

19. Subject to any prior claim of the Government in respect of land-revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent, a registered society shall be entitled in priority to other creditors, to enforce outstanding demand due to the society from a member or past member—

(a) in respect of the supply of seed or manure or of the loan of money for the purchase of seed or manure—upon the crops or other agricultural produce of such member or person at any time within eighteen months from the date of such supply or loan;

(b) in respect of the supply of cattle fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or of the loan of money for the purchase of any of the foregoing things—upon any such things so supplied, or purchased in whole or in part from any such loan, or on any articles manufactured from raw materials so supplied or purchased.

20. A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set off any sum credited or payable to a member or past member in or towards payment of any such debt

21. Subject to the Provisions of section 20, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and neither the Official Assignee under the Presidency-towns Insolvency Act,* 1909, nor a Receiver under the Provincial Insolvency Act,† 1907 shall be entitled to or have any claim on such share or interest,

22 (1) On the death of a member a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws

Provided that—

- (1) in the case of a society with unlimited liability, such nominee, heir or legal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid ;
- (2) in the case of a society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the rules and by-laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application, who is so qualified
- (2) A registered society may pay all other moneys due to the deceased member from the society to such nominee heir or legal representative as the case may be.
- (3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person

23 The liability of a past member for the debts of a registered society as they existed at the time when he ceased to be a member shall continue for a period of two years from the date of his ceasing to be a member.

* Act III of 1909

† Act III of 1907

24 The estate of a deceased member shall be liable for a period of one year from the time of his decease for the debts of a registered society as they existed at the time of his decease.

Liability of the estates
deceased members

25. Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of any of the following particulars entered therein :—

Register of member

(a) the date at which the name of any person was entered in such register or list as a member ;

(b) the date at which any such person ceased to be a member.

26 A copy of any entry in book of a registered society regularly kept in the course of business, shall if certified in such manner as may be prescribed by the rules, be received, in any suit or legal proceeding, as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Proof of entries in societies' books.

Exemption from compulsory registration of instruments relating to shares and debentures of registered society

27. Nothing in section 17, sub-section (1) clauses (b) and (c), of the Indian Registration Act,* 1908, shall apply to—

(1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property ; or

(2) any debenture issued by any such society and not creating declaring, assigning, limiting or extinguishing any right title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for benefit of the holders or such debentures, or

(2) any endorsement upon or transfer of any debenture issued by any such society.

Power to exempt from income-tax, stamp-duty and registration-fees

28. (1) The Governor-General in Council by notification in the Gazette of India may in the case of any registered society or class of registered society remit—

(a) the income-tax payable in respect of the profits of the society or of the dividends or other payments received by the members of the society on account of profits,

"(2) The Local Government by notification in the local official Gazette may in the case of any registered society or class or registered society remit—

- (a) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society, or any class of such instruments are respectively chargeable; and
- (b) any fee payable under the law of registration for the time being in force."*

Property and funds of registered societies

Restrictions on loans **29** (1) A registered society shall not make a loan to any person other than a member.

Provided that, with the general or special sanction of the Registrar, a registered society may make loans to another registered society.

(2) Save with the sanction of the Registrar, a society with unlimited liability shall not lend money on the security of moveable property.

(3) The Local Government may, by general or special order, prohibit or restrict the lending of money on mortgage of immovable property by any registered society or class of registered societies

30. A registered society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by-laws.

Restrictions on borrowing.

31. Save as provided in sections 29 and 30, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions, if any, as the Local Government may, by rules, prescribe.

Restrictions on other transactions with non-members

32. (1) A registered society may invest or deposit its funds—

Investment of funds.

- (a) in the Government Savings Bank, or
- (b) in any of the securities specified in Section 20 of the Indian Trusts Act† 1882, or
- (c) in the shares or on the security of any other registered society, or

* The words within quotations have been inserted by Act 38 or 1920

† Act II of 1882

(d) with any Bank or person carrying on the business of banking, approved for this purpose by the Registrar, or

(e) in any other mode permitted by the rules

(2) Any investments or deposits made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed.

Funds not to be divided by way of profit

33 No part of the funds of a registered society shall be divided by way of bonus or dividend or otherwise among its members

Provided that after at least one-fourth of the net profits in any year have been carried to a reserve fund, payments from the remainder of such profits and from any profits of past years available for distribution may be made among the members to such extent and under such conditions as may be prescribed by the rules or by-laws.

Provided also that in the case of a society with unlimited liability no distribution of profits shall be made without the general or special order of the Local Government in this behalf

34. Any registered society may, with the sanction of the Registrar, after one fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding ten per cent. of the remaining net profits to any charitable purpose, as defined in section 2 of the Charitable Endowments Act* 1890.

Contribution to charitable purpose.

Inspection of affairs

35. (1) The Registrar may of his own motion, and shall on the request of the Collector, or on the application of a majority of the committee, or of not less than one-third of the members, hold an inquiry or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society.

(2) All officers and members of the society shall furnish such information in regard to the affairs of the society as the Registrar or the person authorized by the Registrar may require.

36. (1) The Registrar shall, on the application of a creditor of a registered society, inspect or direct some person authorized by him by order in writing in this behalf to inspect the books of the society:

Inspection of books of indebted society

Provided that—

(a) the applicant satisfies the Registrar that the debt is a sum then due and that he has demanded payment

* Act I, of 1890.

thereof and has not received satisfaction within a reasonable time, and

- (b) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar shall communicate the results of any such inspection to the creditor

37. Where an inquiry is held under section 35, or an inspection is made under section 36, the Registrar may apportion the costs, or such part of the costs as he may think right, between the society, the members or creditor demanding an inquiry or inspection, and the officers or former officers of the society.

38 Any sum awarded by way of costs under section 37 may be recovered, on application to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides or carries on business, by the distress and sale of any moveable property within the limits of the jurisdiction of such Magistrate belonging to such person.

Dissolution of society.

39 (1) If the Registrar, after an inquiry has been held under section 35 or after an inspection has been made under section 36 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may cancel the registration of the society.

(2) Any member of a society may, within two months from the date of an order made under sub-section (1), appeal from such order.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society the order shall take effect on the expiry of that period.

(4) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the appellate authority.

(5) The authority to which appeals under this section shall lie shall be the Local Government.

Provided that the Local Government may, by notification in the local official Gazette, direct that appeals shall lie to such Revenue authority as may be specified in the notification.

40 Where it is a condition of the registration of a society that it should consist of at least ten members, the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten.

Effect of cancellation of registration. **41.** Where the registration of a society is cancelled, the society shall cease to exist as a corporate body—

- (a) in case of cancellation in accordance with the provisions of section 39 from the date the order of cancellation takes effect .
- (b) in case of cancellation in accordance with the provisions of section 40, from the date of the order.

Winding-up. **42.** (1) Where the registration of a society is cancelled under section 39 or section 40, the Registrar may appoint a competent person to be liquidator of the society.

(2) A liquidator appointed under sub-section (1) shall have power—

- (a) to institute and defend suits and other legal proceedings on behalf of the society by his name of office ,
- (b) to determine the contribution to be made by the members and past members of the society respectively to the assets of the society ;
- (c) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising between claimants ;
- (d) to determine by what persons and in what proportions the costs of the liquidation are to be borne , and
- (e) to give such directions in regard to the collection and distribution of the assets of the society, as may appear to him to be necessary for winding up the affairs of the society.

(3) Subject to any rules, a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure,* 1908.

(4) Where an appeal from any order made by a liquidator under this section is provided for by the rules, it shall lie to the Court of the District Judge.

(5) Orders made under this section shall, on application, be enforced as follows :—

- (a) When made by a liquidator, by any Civil Court having local jurisdiction in the same manner as a decree of such Court ;

- (b) when made by the Court of the District Judge on appeal, in the same manner as a decree of such Court made in any suit pending therein.
- (6) Save in so far as is hereinbefore expressly provided, no Civil Court shall have any jurisdiction in respect of any matter connected with the dissolution of a registered society under this Act

Rules.

43. (1) The Local Government may, for the whole or any part of the Province and for any registered society or class of such societies, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) subject to the provisions of section 5, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member ;
- (b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications ,
- (c) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making altering and abrogating by-laws, and the conditions to be satisfied prior to such making, alteration or abrogation ,
- (d) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members, and the payment to be made and the interests to be acquired before the exercise of the right of membership ,
- (e) regulate the manner in which funds may be raised by means of shares or debentures or otherwise ,
- (f) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings ,
- (g) provide for the appointment, suspension and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers ;
- (h) prescribe the accounts and books to be kept by a society and provide for the audit of such account and the

charges, if any, to be made for such audit, and for the periodical publication of a balance-sheet showing the assets and liabilities of a society ,

- (i) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the from in which such returns shall be submitted :
- (j) provide for the persons by whom and the from in which copies of entries in books of societies may be certified.
- (k) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares ;
- (l) provide that any dispute touching the business of a society between members or past members of the society or persons claiming through a member or past member or between a member or past member or persons so claiming and the committee or any officer shall be referred to the Registrar for decision or, if he so directs, to arbitration, and prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators, and the enforcement of the decisions of the Registrar or the awards of arbitrators ;
- (m) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liabilities of past members ;
- (n) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred ;
- (o) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent, to an individual member ;
- (p) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society ;
- (q) prescribe the extent to which a society may limit the number of its members ;
- (r) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies ;

(s) subject to the provisions of section 39, determine in what cases an appeal shall lie from the orders of the Registrar and prescribe the procedure to be followed in presenting and disposing of such appeals, and

(t) prescribe the procedure to be followed by a liquidator appointed under section 42, and the cases in which an appeal shall lie from the order of such liquidator.

(3) The Local Government may delegate, subject to such conditions, if any, as it thinks fit, all or any of its powers to make rules under this section to any authority specified in the order of delegation.

(4) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(5) All rules made under this section shall be published in the local official Gazette and on such publication shall have effect as if enacted in this Act.

Miscellaneous.

44. (1) All sums due from a registered society or from an officer or member or past member of a registered society as such to the Government, including any costs awarded to the Government under section 37, may be recovered in the same manner as arrears of land-revenue

(2) Sums due from a registered society to Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society; secondly, in the case of a society of which the liability of the members is limited, from the members subject to the limit of their liability; and, thirdly, in the case of other societies, from the members.

45. Notwithstanding anything contained in this Act, the Local Government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration

46. The Local Government may, by general or special order, exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order.

47. (1) No person other than a registered society shall trade or carry on business under any name or title of which the word "co-operative" is part without the sanction of the Local Government.

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

48. The provisions of the Indian Companies Act,* 1882, shall not apply to registered societies.

49. Every society now existing which has been registered under the Co-operative Credit Societies Act,† 1904 shall be deemed to be registered under this Act, and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

50 [*Repealed*].—*Repealed by Act (XVII of 1914).*

* Act VI of 1882. See now Act VII of 1913 by which the former Act has been repealed

† Act X of 1904

ACT NO. III OF 1912.

The Indian Post Office (Amendment) Act, 1912

PASSED BY THE GOVERNOR-GENERAL OF INDIA OF COUNCIL

Received the assent of the Governor General on the 1st March, 1912,

An Act further to amend the Indian Post Office Act, 1898.

Whereas it is expedient further to amend the Indian Post Office Act,* 1898; It is hereby enacted as follows—

Short title. 1. This Act may be called the Indian Post Office (Amendment) Act, 1912.

Substitution of new sub-sections (1) and (2) in section 21 of Act VI of 1898. 2. For sub-sections (1) and (2) of section 21 of the said Act, the following sub-sections shall be substituted, namely—

“21. (1) The Governor-General in Council may make rules as to the transmission of articles by post.

(2) In particular and without prejudice to the generality or the foregoing power, such rules may—

(a) specify articles which may not be transmitted by post,

(b) prescribe conditions on which articles may be transmitted by post;

(c) provide for the detention and disposal of articles in course of transmission by post in contravention of rules made under clause (a) or clause (b),

(d) provide for the granting of receipts for, and the granting and obtaining of certificates of, posting and delivery of postal articles and the sums to be paid, in addition to any other postage, for such receipts and certificates; and

(e) regulate covers, forms, dimensions, maximum weights, and enclosures, and the use of postal articles, other than letters, for making communications.

3 (1) In section 23, sub-section (2), of the said Act, after the words “in contravention of” the words and figures “section 20, clause (a), or of” shall be inserted.

Amendment of section 23 of same Act

(2) In sub-section (3) of the same section of the said Act, for clause (b) the following shall be substituted, namely:—

“(b) any postal article sent by post in contravention of the provisions of section 20 may be disposed of in such manner as the Governor-General in Council may by rule direct.”

* Act VI, of 1898.

4 In section 24 of the said Act, for the words "Where a postal articles, suspected to contain any contraband goods" the words "Except as otherwise provided in this Act, where a postal article suspected to contain any goods of which the import by post or the transmission by post is prohibited by or under any enactment for the time being in force," shall be substituted.

5. In section 25 of the said Act, for the words "all such goods found" the words "all postal articles reasonably believed or found to contain such goods" shall be substituted, and to the same section the following shall be added, namely —

"In carrying out any such search, such officer of the Post Office may open or unfasten, or cause to be opened or unfastened, any newspaper or any book, pattern or sample packet in course of transmission by post."

6. In section 26, sub-section (1), of the said Act, for the words "shall be delivered to the Government or to an officer thereof mentioned in the order, to be disposed of in such manner as the Governor-General in Council may direct," the following shall be substituted, namely:—

"shall be disposed of in such manner as the authority issuing the order may direct."

7. (1) In section 35, sub-section (2), of the said Act, at the end of clause (c) the word "and" shall be omitted, and after clause (d) the following shall be added, namely:—

"(e) provide for the retention and repayment to the addressee in cases of fraud, of money recovered on the delivery of any value-payable postal article; and

(f) prescribe the fees to be charged for inquiries into complaints regarding the delivery of or payment for value-payable postal articles."

(2) After sub-section (3) of the same section the following shall be added, namely —

"(4) No suit or other legal proceeding shall be instituted against the Secretary of State for India in Council or any officer of the Post Office in respect of anything done, or in good faith purporting to be done, under any rule made under clause (e) of sub-section (2)."

8. To section 48 of the said Act the following shall be added, namely:—

"or

(e) any wrong payment or delay in payment of a money-order beyond the limits of British India by an officer of any post office, not being one established by the Governor-General in Council,"

ACT NO. IV. OF 1912.

The Indian Lunacy Act, 1912.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

*Received the assent of the Governor-General on the 16th
March 1912.*

An Act to consolidate and amend the law relating to Lunacy.

Whereas it is expedient to consolidate and amend the law relating to lunacy, It is hereby enacted as follows :—

PART I.

PRELIMINARY.

CHAPTER I.

Short title and extent. **1. (1)** This Act may be called Indian Lunacy Act, 1912.

(2) It extends to the whole of British India, including British Baluchistan, the Santhal Pargannas, and the Parganna of Sipiti.

2 Nothing contained in Part II. shall be deemed to affect the powers of any High Court which is or hereafter may be established under the Indian High Courts Acts* 1861 to 1911, over any person found to be a lunatic by inquisition or over the property of such lunatic, or the rights of any person appointed by such Courts as guardian of the person or manager of the estate of such lunatic.

Definitions

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) “asylum” means an asylum “mental hospital”† for lunatics established or licensed by Government :

(2) “cost of maintenance” in an asylum includes the cost of lodging, maintenance, clothing, medicine and care of a lunatic and any expenditure incurred in removing such lunatic to and from an asylum “together with any other charges specified in his behalf by the Governor General in Council in exercise of any power conferred upon him by this Act.”†.

* 24 & 25 Vict, c 100, to 1 & 2 Geo. 5, c. 18

† The words within quotations have been inserted by Act 6 of 1922.

(3) "District Court" means the principal Civil Court of original jurisdiction in any area outside the local limits for the time being of the Presidency towns.

(4) "criminal lunatic" means any person for whose "detention"* in, or removal to an asylum, jail or other place of safe custody an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure,† 1898, or of section 30 of the Prisoners Act,‡ 1900; "or under section 130A of the Indian Army, Act, 1911"§

(5) "lunatic" means an idiot or person of unsound mind.

(6) "Magistrate" means an Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or a Magistrate of the first class specially empowered by the Local Government to perform the functions of a Magistrate under this Act :

(7) "medical officer" means a gazetted medical officer of Government, and includes a medical practitioner declared by general or special order of the Local Government to be a medical officer for the purpose of this Act ;

(8) "medical practitioner" means a holder of a qualification to practise medicine and surgery which can be registered in the United Kingdom in accordance with the law for the time being in force for the registration of medical practitioners, and includes any person declared by general or special order of the Local Government to be a medical practitioner for the purposes of this act :

(9) "prescribed" means prescribed by this Act or by rule made there under .

(10) "reception order" means an order made under the provisions of this Act for the reception into an asylum of a lunatic other than a lunatic so found by inquisition .

(11) "relative" includes any person related, by blood, marriage or adoption : and

(12) "rule" means rule made under this Act.

* The words within quotations has been substitute by act 11 of 1923.

† Act V. of 1898

‡ Act III. of 1900.

§ The words within quotations have been inserted by Act 33 of 1923.

|| The words within quotations have been inserted by Act 6 of 1922.

PART II.

RECEPTION, CARE AND TREATMENT OF LUNATICS.

CHAPTER II.

RECEPTION OF LUNATIC.

4. (1) No person other than a criminal lunatic or a lunatic so found by inquisition shall be received or detained in an asylum without a reception order save as provided by sections 8, 16 and 98.

Provided that any person in charge of an asylum may, with the consent of two of the visitors of such asylum, which consent shall not be given except upon a written application from the intending boarder, receive and lodge as a boarder in such asylum any person who is desirous of submitting himself to treatment.

(2) A boarder received in an asylum under the proviso to subsection (1) shall not be detained in the asylum for more than twenty-four hours after he has given to the person in charge of the asylum notice in writing of his desire to leave such asylum.

Reception Orders on petition.

5. (1) An application for a reception order shall be made by petition accompanied by a statement of particulars to the Magistrate within the local limits of whose jurisdiction the alleged lunatic ordinarily resides, shall be in the form prescribed and shall be supported by two medical certificates on separate sheets of paper, one of which certificates shall be from a medical officer.

(2) If either of the medical certificates is signed by any relative partner or assistant of the lunatic or of the petitioner, the petition shall state the fact, and, where the person signing is a relative, the exact manner in which he is related to the lunatic or petitioner.

(3) the petition shall also state whether any previous application has been represented for an inquiry into the mental capacity of the alleged lunatic in any Court, and if such application has been made, a certified copy of the order made thereon shall be attached to the petition

(4) No application for a reception order shall be entertained in any area outside the Presidency towns unless the Local Government has, by notification in the local official Gazette, declared such area as an area in which reception orders may be made.

6 (1) The petition shall be presented, if possible, by—

- (a) the husband or wife of the alleged lunatic, or
- (b) by any other relative of his,

(2) If the petition is not so presented, it shall contain a statement of the reasons why it is not so presented, and of the connection of the petitioner with the alleged lunatic, and the circumstances under which he presents the petition

(3) No person shall present a petition unless he has attained the age of majority as determined by the law to which he is subject and has within fourteen days before the presentation of the petition, personally seen the said lunatic.

(4) The petition shall be signed and verified by the petitioner and the statement of prescribed particulars by the person making such statement.

7 (1) Upon the presentation of the petition the Magistrate shall consider the allegations in the petition for reception order and the evidence of lunacy appearing by the medical certificates.

(2) If he considers that there are grounds for proceeding further he shall personally examine the alleged lunatic unless for reasons to be recorded in writing he thinks it unnecessary or inexpedient so to do

(3) If he is satisfied that a reception order may properly be made forthwith, he may make the same accordingly.

(4) If he is not so satisfied, he shall fix a date (notice whereof shall be given to the petitioner and to any other person to whom in the opinion of the Magistrate notice should be given) for the consideration of the petition, and he may make such further or other enquiries of or concerning the alleged lunatic as he thinks fit.

8. Upon the presentation of the petition the Magistrate may make such order as he thinks fit for the detention of alleged lunatic pending enquiry suitable custody of the alleged lunatic pending the conclusion of the inquiry.

9 The petition shall be considered in private in the presence of the petitioner, the alleged lunatic (unless the Magistrate in his discretion otherwise directs), any person appointed by the alleged lunatic to represent him and such other persons as the Magistrate thinks fit.

10. (1) At the time appointed for the consideration of the petition, the Magistrate may either make a reception order or dismiss the petition, or may adjourn the same for further evidence or inquiry, and may make such order as to the payment of the costs of the inquiry by the person upon whose application it was made, or out of the estate of the alleged lunatic if found to be of unsound mind, or otherwise, as he thinks fit.

(2) If the petition is dismissed, the Magistrate shall record in writing his reasons for dismissing the same, and shall deliver or cause to be delivered to the petitioner a copy of such order.

11. No reception order shall be made under section 7 or section 10 save in the case of a lunatic who is Further provisions as to reception orders on dangerous and unfit to be at large, unless—
petition.

- (a) the Magistrate is satisfied that the person in charge of an asylum is willing to receive the lunatic, and
- (b) the petitioner or some other person engages in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the lunatic.

11A* (1) when an arrangement has been made with any European State with respect to the reception of lunatics in asylums in British India, the Governor-General in Council may, by notification in the Gazette of India, direct that reception orders may be made under this Act in the case of any lunatic or class of lunatics residing in the territories in India of such foreign European State, and shall in such notification specify the province or provinces within which such reception orders may be made

(2) On publication of a notification under sub section (1), the provisions of this Act as to the making of reception orders on petition and for temporary detention in suitable custody shall apply in the case of such lunatics, with the following modifications, namely —

- (a) an application for a reception order may be made by petition presented by such officer or agent of the foreign State in which the alleged lunatic ordinarily resides as may by general or special order be approved by the Local Government in this behalf ;
- (b) the functions of the Magistrate shall be performed by such officer as that Local Government may, by general or special order appoint in this behalf, and such officer shall be deemed to be the Magistrate having the jurisdiction of the alleged lunatic for all the purposes of the said provisions ;
- (c) for the purposes of sections 5 and 18 (1), the expressions " medical officer " and " medical practitioner " shall include such person or class of persons as the Local Government may specify in this behalf ;
- (d) the Magistrate may in his discretion extend the period prescribed by section 19 within which the alleged lunatic must have been medically examined ; and
- (e) sections 6 (1), (2), (3) 11 and 34 of the Act shall not apply and with such other modifications, restrictions or adaptations as the Governor-General in Council may, by notification in the Gazette of India, direct for the

* Section 11A has been added by Act XII. of 1916

purpose of facilitating the application of the said provisions.

(3) A reception order made under this section shall be deemed to be a reception order made under section 7 or section 10, as the case may be.

12. When any European who is subject to the provisions of the Army Act * has been declared a lunatic in accordance with the provisions of the military regulations in force for the time being, and it appears to any administrative medical officer that he should be removed to an asylum, such administrative medical officer may, if he thinks fit, make a reception order under his hand for the admission of the said lunatic into any asylum which has been duly authorized for the purpose by the Governor-General in Council.

13 (1) Every officer in charge of a police-station may arrest or cause to be arrested all persons found wandering at large within the limits of his station whom he has reason to believe to be lunatics, and shall arrest or cause to be arrested all persons within the limits of his station whom he has reason to believe to be dangerous by reason of lunacy. Any person so arrested shall be taken forthwith before the Magistrate.

(2) Every officer in charge of a police station who has reason to believe that any person within the limits of his station is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, shall immediately report the fact to the Magistrate.

14. Whenever any person is brought before a Magistrate under the provisions of sub-section (1) of section 13 the Magistrate shall examine such person, and if he thinks that there are grounds for proceeding further shall cause him to be examined by a medical officer and may make such other inquiries as he thinks fit, and if the Magistrate is satisfied that such person is a lunatic and a proper person to be detained, he may, if the medical officer who has examined such person, gives a medical certificate with regard to such person, make a reception order for the admission of such lunatic into an asylum :

Provided that if any friend or relative desires that the lunatic be sent to a licensed asylum and engages in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the lunatic in such asylum, the Magistrate shall, if the person in charge of

such asylum consents, make a reception order for the admission of the lunatic into the licensed asylum mentioned in the engagement.

Provided further that if any friend or relative of the lunatic enters into a bond with or without sureties for such sum of money as the Magistrate thinks fit conditioned that such lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or to others, the Magistrate, instead of making a reception order, may, if he thinks fit, make him over to the care of such friend or relative

15 (1) If it appears to the Magistrate, on the report of a police-officer or the information of any other person that any person within the limits of his jurisdiction deemed to be a lunatic is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may cause the alleged lunatic to be produced before him, and summon such relative or other person as has or ought to have the charge of him.

(2) If such relative or other person is legally bound to maintain the alleged lunatic, the magistrate may make an order for such alleged lunatic being properly cared for and treated, and, if such relative or other person wilfully neglects to comply with the said order, the Magistrate may sentence him to imprisonment for a term which may extend to one month.

(3) If there is no person legally bound to maintain the alleged lunatic, or if the Magistrate thinks fit so to do, he may proceed as prescribed in section 14, and upon being satisfied in manner aforesaid that the person deemed to be a lunatic is a lunatic and a proper person to be detained under care and treatment may, if a medical officer gives a medical certificate with regard to such lunatic, make a reception order for the admission of such lunatic into an asylum.

16 (1) When any person alleged to be a lunatic is brought before a Magistrate under the provisions of section 13 or section 15, the Magistrate may, by an order in writing, authorize the detention of the alleged lunatic in suitable custody for such time not exceeding ten days as may be, in his opinion, necessary to enable the medical officer to determine whether such alleged lunatic is a person in respect of whom a medical certificate may be properly given

(2) The Magistrate may, from time to time, for the same purpose by order in writing, authorize such further detention of the alleged lunatic for periods not exceeding ten days at a time as he thinks necessary :

Provided that no person shall be detained in accordance with the provisions of this section for a total period exceeding thirty days from the date on which he was first brought before the Magistrate

17 All acts which the Magistrate is authorized or required to do by sections 14, 15 or 16 may be done in the Presidency towns or Rangoon by the Commissioner of Police, and all duties which an officer in charge of a police-station is authorized or required to perform, may be performed in any of the Presidency towns by an officer of the police force not below the rank of inspector.

Further provisions as to reception orders and medical certificates

18. (1) Every medical certificate under this Act shall be made and signed by a medical practitioner or a medical officer, as the case may be, and shall be in the form prescribed

(2) Every medical certificate shall state the facts upon which the person certifying has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others; and no reception order on petition shall be made upon a certificate founded only upon facts communicated by others

(3) Every medical certificate made under this Act shall be evidence of the facts therein appearing and of the judgment therein stated to have been formed by the person certifying on such facts, as if the matters therein appearing had been verified on oath

19. (1) A reception order required to be founded on a medical certificate shall not be made unless the person who signs the medical certificate, or, where two certificates are required, each person who signs a certificate, has personally examined the alleged lunatic, in the case of an order upon petition, not more than seven clear days before the date of the presentation of the petition, and, in all other cases, not more than seven clear days before the date of the order

(2) Where two medical certificates are required, a reception order shall not be made unless each person signing a certificate has examined the alleged lunatic separately from the other

20 A reception order, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner or any person authorized by him, or in the case of an order not made upon petition, for the person authorized so to do by the person making the order, to take the lunatic and convey him to the place mentioned

in such order and for his reception and detention, therein, or in any asylum to which he may be removed in accordance with the provisions of this Act, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order.

“Provided that no reception order shall be continue to have effect—

(a) after the expiry of thirty days from the date on which it was made, unless the lunatic has been admitted to the place mentioned therein within that period, or

(b) after the discharge under the provisions, of this Act, of the lunatic from such place or from any asylum to which he may have been removed.”†

21. Any authority making a reception order under this Part shall forthwith send a certified copy of the order to the person in charge of the asylum into which such lunatic is to be admitted.

Copy of reception order to be sent to person in charge of asylum.

22. Subject to the provisions of section 85, no Magistrate shall make a reception order for the admission of any lunatic into any asylum established by Government outside the Province in which the Magistrate exercises jurisdiction.

Restriction as to asylum into which reception orders may direct admission.

Detention of lunatics pending removal to asylum.

23. When any reception order has been made under sections 7, 10, 14 or 15, the Magistrate may, for reasons to be recorded in writing, direct that the lunatic, pending his removal to any asylum, be detained in suitable custody in such place as the Magistrate thinks fit

Detention of lunatics pending removal to asylum

Reception and detention of criminal lunatics.

24. An order under section 456 or section 471 of the Code of Criminal Procedure,† 1898, or under section 30 of the Prisoners Act,‡ 1900 “or under the provisions of section 103A of the Indian Army Act, 1911” § directing the reception of a criminal lunatic into any asylum which is prescribed for the reception of criminal lunatics shall be sufficient authority for the reception and detention of any person named therein in such asylum or in any other asylum to which he may be lawfully transferred.

Reception and detention of criminal lunatics

* The words within quotations have been inserted by Act 32 of 1923.

† Act V. of 1898

‡ Act III. of 1900.

§ The words within quotations have been inserted by Act 33 of 1923.

Reception after inquisition.

Reception after inquisition. **25** A lunatic so found by inquisition may be admitted into an asylum—

- (1) in the case of an inquisition under Chapter IV. on an order made by or under the authority of the High Court;
- (2) in the case of an inquisition under Chapter V. on an order made by the District Court.

26. (1) When any lunatic has been admitted into an asylum in accordance with the provisions of section 25, the High Court or the District Court, Order for payment of cost of maintenance of lunatic as the case may be, shall, on the application of the person in charge of the asylum, make an order for the payment of the cost of maintenance of the lunatic in the asylum, and may from time to time direct that any sum of money payable under such order shall be recovered from the estate of the lunatic or of any person legally bound to maintain him :

Provided that, if at any time it shall appear to the satisfaction of the Court that the lunatic has not sufficient property, and that no person legally bound to maintain such lunatic has sufficient means for the payment of such cost, the Court shall certify the same instead of making such order for the payment of the costs as aforesaid,

(2) An order under sub-section (1) shall be enforced in the same manner and shall be of the same force and effect and subject to the same appeal as a decree made by the Court in a suit in respect of the property or person therein mentioned

Amendment of order or certificate.

27 If, after the reception of any lunatic into any asylum, on Amendment of order or certificate a reception order, it appears that the order upon which he was received or the medical certificate or certificates upon which such order was made is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said asylum, one of whom shall be a medical officer

CHAPTER III.

CARE AND TREATMENT.

Visitors.

28 (1) The local Government shall appoint for every asylum not less than three visitors, one of whom at least shall be a medical officer.
 Appointment of visitors

(2) The Inspector-General of Prisons (where such office exists) shall be a visitor *ex-officio* of all the asylums within the limits of his jurisdiction.

29 Two or more of the visitors, one of whom shall be a medical officer, shall, once at least in every month, together inspect every part of the asylum of which they are visitors, and see and examine as far as circumstances will permit, every lunatic and boarder therein, and the order and certificate for the admission of every lunatic admitted since the last visitation of the visitors, and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the inmates thereof.
 Monthly inspection by visitors

30. (1) When any person is "detained"* under the provisions of section 466 or section 471 of the Code of Criminal Procedure,† 1898 "or under the provisions of section 103 A of the Indian Army Act, 1911" ‡ the Inspector-General of Prisons if such person is "detained"* in a jail, or the visitors of the asylum or any two of them, if he is "detained"* in an asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General or by two of such visitors as aforesaid; and such Inspector-General or visitors shall make a special report as to the state of mind of such person to the authority under whose order he is "detained"*.
 Inspection of criminal lunatics by Inspector-General or visitors

(2) The Local Government may empower the officer in charge of the jail in which such person may be "detained"* to discharge all or any of the functions of the Inspector-General under subsection (1).
 •

Discharge of duties.

31. (1) Three of the visitors of any asylum, of whom one shall be a medical officer, may, by order in writing, direct the discharge of any person detained in such asylum, and such person thereupon be discharged.
 Order of discharge from asylum by visitors.

* The word within quotations has been substituted by Act 11 of 1923

† Act V. of 1898.

‡ The words within quotations have been inserted by Act 33 of 1923

Provided that no order under this sub-section shall be made in the case of a person detained under a reception order under section 12, or, in the case of a criminal lunatic, otherwise than as provided by section 30 of the Prisoners Act,* 1900.

(2) When such order is made, if the person detained under the order of any public authority, notice of the order of discharge shall be immediately communicated to such authority

32. (1) A lunatic detained in an asylum under a reception order, made on petition, shall be discharged if the person on whose petition the reception order was made so applies in writing to the person in charge of the asylum .

Discharge of lunatics in other cases and of European military lunatics. Provided that no lunatic shall be discharged under the provisions of sub-section (1) if the officer in charge of the asylum certifies in writing that the lunatic is dangerous and unfit to be at large

(2) A person detained in an asylum under a reception order made under section 12 shall be detained therein until he is discharged therefrom in accordance with the military regulations in force for the time being, or until the officer making the order applies for his transfer to the military authorities in view to his removal to England.

(3) Whenever it appears to the officer in charge of an asylum that the discharge of a person therein detained under an order made under section 12 is necessary either on account of his recovery, or for any other purpose, such person shall be brought before the visitors of the asylum, and on the visitors recording their opinion that the discharge should be made, the General or other Officer Commanding the division, district, brigade or force, or other officer authorized to order the admission of such persons into an asylum, shall forthwith direct him to be discharged, and such discharge shall take place in accordance with the military regulations in force for the time being

33. When any relative or friend of a lunatic detained in any asylum under the provisions of sections 14, 15 or 17 is desirous that such lunatic shall be delivered over to his care and custody, he may make application to the authority under whose order the lunatic is detained, and such authority, if it thinks fit, in consultation with the person in charge of the asylum and with the visitors or with one of them being a medical officer, and upon such relative or friend entering into a bond with or without sureties for such sum of money as the said authority thinks fit conditioned that such lunatic shall be properly taken care of and shall be prevented from doing injury to himself or to

* Act III of 1900

others, may make an order for the discharge of such lunatic, and such lunatic shall thereupon be discharged.

34 If any lunatic detained in an asylum on a reception order made under sections 7, 10, 14, 15 or 17 is subsequently found on an inquisition under Chapter IV, or Chapter V, not to be of unsound mind, and incapable of managing himself and his affairs, the person in charge of the asylum shall forthwith, on the production of a certified copy of such finding, discharge the alleged lunatic from the asylum.

Removal of lunatics.

35 "(1) Any lunatic may, in accordance with any general or special order of the Local Government be removed from any asylum established by Government to any other asylum within the province or to any other asylum in any other province with the consent of the Local Government of that province"*

Provided that no lunatic admitted into an asylum on a reception order made on petition shall be removed in accordance with the provisions of this sub-section until notice of such intended removal has been given to the petitioner

(2) The "Local Government"* may make such general or special order as "it"* thinks fit directing the removal of any person for whose "detention"† an order has been made under section 466 or section 471 of the Code of Criminal Procedure, 1898 "or under section 103A of the Indian Army Act, 1911"‡ from the place where he is for the time being "detained,"† to any asylum, jail or other place of safe custody "in the province, or to any asylum or jail or other place of safety in any other province with the consent of the Local Government of that province"*

Escape and re-capture

36. Every person received into an asylum under any such order as is required by this act, may be detained therein until he is removed or discharged as authorized by law, and in case of escape may, by virtue of such order, be re-taken by any police-officer or by the person in charge of such asylum, or any officer or servant belonging thereto, or any other person authorized in that behalf by the said person in charge, and conveyed to and received and detained in such asylum :—

* The words within quotations have been substituted by Act 38 of 1920.

† The word within quotations have been inserted by Act 11 of 1923.

‡ The words within quotations have been substituted by Act 33 of 1923.

Provided that in the case of a lunatic not being a criminal lunatic or a lunatic in respect of whom a reception order has been made under section 12, the power to re-take such escaped lunatic under this section shall be exercisable only for a period of one month from the date of his escape.

PART III.

JUDICIAL INQUISITION AS TO LUNACY

CHAPTER IV.

PROCEEDINGS IN LUNACY IN PRESIDENCY TOWNS.

Inquisition.

37. The Courts having jurisdiction under this Chapter shall be the High Courts of Judicature at Fort William, Madras and Bombay.

38. (1) The Court may upon application by order direct an inquisition whether a person subject to the jurisdiction of the Court who is alleged to be insane be lunatic, is of unsound mind and incapable of managing himself and his affairs.

(2) Such order may also contain directions for inquiries concerning the nature of the property belonging to the alleged lunatic, the persons who are his relatives, the time during which he has been of unsound mind or such other matters as to the Court may seem proper.

39. Application for such inquisition may be made by any relative of the alleged lunatic, or by the Advocate-General.

40 (1) Notice shall be given to the alleged lunatic of the time and place at which it is proposed to hold the inquisition.

(2) If it appears that personal service on the alleged lunatic would be ineffectual, the Court may direct such substituted service of the notice as it thinks fit.

(3) The Court may also direct a copy of such notice to be served upon any relative of the alleged lunatic and upon any other person to whom in the opinion of the Court notice of the application should be given.

41. (1) The Court may require the alleged lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court, or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged lunatic.

(2) The Court may likewise make an order authorizing any person or persons therein named to have access to the alleged lunatic for the purpose of a personal examination.

42. The attendance and examination of the alleged lunatic under the provisions of section 41 shall, if the alleged lunatic be a woman who, according to the manners and customs of the country, ought not to be compelled to appear in public, be regulated by the law and practice for the examination of such persons in other civil cases.

43 (1) If the alleged lunatic is not within the local limits of the jurisdiction of the Court, and the inquisition cannot conveniently be made in the manner hereinbefore provided, the Court may direct the inquisition to be made before the District Court within whose local jurisdiction the alleged lunatic may be ; and such District Court shall accordingly proceed to make such inquisition in the same manner as if the alleged lunatic were subject to its jurisdiction and shall certify its finding upon the matters of inquisition to the Court directing the inquisition

(2) The record of evidence taken upon the inquisition shall be transmitted, together with any remarks the Court may think fit to make thereon, to the Court by which the inquisition was directed.

44. If the finding of the District Court appears to the Court directing the inquisition to be defective or insufficient in point of form, it may either amend the same or refer it back to the Court which made the inquisition to be amended,

45. The finding of the Court on the inquisition or the finding of the District Court to which the inquisition may have been referred under the provisions of section 43 with such amendments as may be made under the provisions of section 44, as the case may be, shall, have the same effect, and to be proceeded on in the same manner in regard to the appointment of a guardian of a person and a manager of the estate of the lunatic as the findings referred to in section 12 of the Lunacy (Supreme Courts) Act,* 1858, immediately before the commencement of this Act.

*Judicial powers over person and estate of lunatic.***46. (1)** The Court may make orders for the custody of lunatics

Custody of lunatics and so found by inquisition and the management of their management of their estates.
estates.

(2) When upon the inquisition it is specially found that the person to whom the inquisition relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or to others, the Court make such orders as it thinks fit for the management of the estate of the lunatic including proper provision for the maintenance of the lunatic and of such members of his family as are dependent on him for maintenance, but it shall not be necessary to make any order as to the custody of the person of the lunatic.

47 The Court, on the appointment of a manager of the estate of a lunatic, may direct by the order of

Powers of manager in respect of management of lunatic's estate

appointment, or by any subsequent order, that such manager shall have such powers for the management of the estate as to the Court may seem necessary and proper, reference being had to the nature of the property, whether moveable or immoveable, of which the estate may consist :

Provided that no manager so appointed shall without the permission of the Court—

(a) Mortgage, charge or transfer by sale, gift, exchange or otherwise, any immoveable property of the lunatic ; or

(b) lease any such property for a term exceeding five years.

Such permission may be granted subject to any condition or restriction which the Court thinks fit to impose.

48. The Court may, on application made to it by petition

Power to make order concerning any matter connected with the lunacy.

concerning any matter whatsoever connected with the lunatic or his estate make such order, subject to the provisions of this Chapter, respecting the application, as in the circumstances, it thinks fit.

*Management and administration.***49** The Court may, if it appears to be just or for the lunatic's benefit, order that any property, moveable

Power to dispose of lunatic's property for certain purposes

or immoveable, of the lunatic, and whether in possession, reversion, remainder, or contingency be sold, charged, mortgaged, dealt with or otherwise disposed of as may seem most expedient for the purpose of raising or securing or repaying with or without interest

money to be applied or which has been applied to all or any of the following purposes, namely—

- (1) the payment of the lunatic's debts or engagements ;
- (2) the discharge of any incumbrance on his property.
- (3) the payment of any debt or expenditure incurred for the lunatic's maintenance or otherwise for his benefit ;
- (4) The payment of or provision for the expenses of his future maintenance and the maintenance of such members of his family as are dependent on him for maintenance, including the expenses of his removal to Europe, if he shall be so removed, and all expenses incidental thereto ;
- (5) the payment of the costs of any inquiry under this Chapter, and of any costs incurred by order or under the authority of the Court.

50. (1) The manager of the lunatic's estate shall, in the name and on behalf of the lunatic execute all such conveyances and instruments of transfer relative to any sale, mortgage or other disposition of his estate as the Court may order.

Execution of conveyances and powers by manager under order of Court

(2) Such manager shall, in like manner, under the order of the Court, exercise all powers whatsoever vested in a lunatic, whether the same are vested in him for his own benefit or in the character of trustee or guardian.

51 Where a person, having contracted to sell or otherwise dispose of his estate or any part thereof, afterwards becomes lunatic, the Court may, if the contract is such as the Court thinks ought to be performed, direct the manager of the estate to execute such conveyances and to do such other acts in fulfilment of the contract as it shall think proper.

Court may order performance of contract

52 (1) Whether a person, being a member of a partnership firm, is found to be a lunatic, the Court, may, on the application of the other partners, or of any person who appears to the Court to be entitled to require the same, dissolve the partnership.

Dissolution and disposal of property of partnership on a member becoming lunatic

(2) Upon such dissolution, or upon a dissolution by decree of Court or otherwise by due course of law, the manager of the estate may, in the name and on behalf of the lunatic, join with the other partners in disposing of the partnership property upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the Court shall think proper.

53. Where a lunatic has been engaged in business, the Court may, if it appears to be for the lunatic's benefit that the business premises should be disposed of, order the manager of the estate to sell and dispose of the same, and the moneys arising from such sale shall be applied in such manner as the Court may direct

54. Where a lunatic is entitled to a lease or under lease, and it appears to be for the benefit of his estate that it should be disposed of, the manager of the estate may, by order of the Court, surrender, assign or otherwise dispose of the same to such person for such valuable or nominal consideration, and upon such terms, as the Court thinks fit.

55. If a lunatic possessed of any immoveable property situate beyond the local limits of the jurisdiction of the Court, which, by the law in force in the Province wherein such property is situated, subjects the proprietor, if disqualified, to the jurisdiction of the Court of Wards, the said Court of Wards may assume the charge of such property and manage the same according to the law for the time being in force for such management :

Provided that—

- (1) in such case, no further proceedings in respect of the lunacy shall be taken under any such law, nor shall it be competent to the Court of Wards or to any Collector to appoint a guardian of the person of the said lunatic or a manager of the estate except of the immoveable property which so subjects the proprietor as aforesaid
- (2) the surplus of the income of such property, after providing for the payment of the Government revenue and expenses of management, shall be disposed of from time to time in such manner as the High Court may direct :
- (3) nothing contained in this section shall affect the powers given to the High Court by sections 49, 50 and 51 or (except so far as relates to the management of the said immoveable property which so subjects the proprietor as aforesaid) the powers given by any other section.

56. (1) If it appears to the Court, having regard to the situation and condition in life of the lunatic and his family and the other circumstances of the case, to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner it may, instead of appointing a manager of the estate,

order that the property if money or if of any other description the produce thereof, when realized, be paid to such person as the Court may think fit, to be applied for the purpose aforesaid.

(2) The receipt of the person so appointed shall be a valid discharge to any person who pays any money or delivers any property of the lunatic to such person.

Vesting orders.

57. Where any stock or Government securities or any share in a company (transferable within British India or the dividends of which are payable there) is or are standing in the name of, or vested in, a lunatic, beneficially entitled thereto, or in a manager of the estate of a lunatic, or in a trustee for him, and the manager dies intestate, or himself becomes lunatic, or is out of the jurisdiction of the Court, or it is uncertain whether the manager is living or dead, or he neglects or refuses to transfer the stock, securities or shares, or to receive and pay over thereof the dividends to a new manager or as the Court directs, within fourteen days after being required by the Court to do so, then the Court may order some fit person to make such transfer, or to transfer the same, and to receive and pay over the dividends in such manner as the Court directs.

58. Where any such stock or Government securities or share in a company is or are standing in the name of, or vested in, any person residing out of British India and not in any part of the United Kingdom, the Court upon being satisfied that such person has been declared lunatic, and that his personal estate has been vested in a person appointed for the management thereof, according to the law of the place where he is residing, may order some fit person to make such transfer of the stock, securities or shares, or of any part thereof, to or into the name of the person so appointed or otherwise, and also to receive and pay over the dividends and proceeds as the Court thinks fit.

General

59. If it appears to the Court that the unsoundness of mind of a lunatic is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of such members of his family as are dependent on him for their maintenance the Court may, in like manner as under section 56, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

60. (1) When any person has been found under this Chapter to be of unsound mind and it is subsequently shown to the Court that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for inquiring whether such person is still of unsound mind and incapable of managing himself and his affairs.

(2) The inquiry shall be conducted as far as may be in the manner prescribed in this Chapter for an inquisition into the unsoundness of mind of an alleged lunatic, and if it is found that the unsoundness of mind has ceased, the Court shall order all proceedings in the lunacy to cease or to be set aside on such terms and conditions as to the Court may seem fit

61. The Court may, from time to time, make rules for the purpose of carrying into effect the provisions of this Chapter in matters of lunacy.

Power of Court to make rules.

CHAPTER V.

PROCEEDINGS IN LUNACY OUTSIDE PRESIDENCY TOWNS.

Inquisition.

62. Whenever any person not subject to the jurisdiction of any of the Courts mentioned in section 37 is possessed of property and is alleged to be a lunatic, the District Court within whose jurisdiction such person is residing may, upon application, by order direct and inquisition for the purpose of ascertaining whether such person is of unsound mind and incapable of managing himself and his affairs.

63. (1) Application for such inquisition may be made by any relative of the alleged lunatic or by any public curator appointed under the Succession (property protection) Act,* 1841 (hereinafter referred to as the curator), or by the Government Pleader, as defined in the Code of Civil Procedure,† 1908 or if the property of the alleged lunatic consists in whole or in part of land or any interest in land, by the Collector of the District in which it is situate.

(2) If the property or any part thereof is of such a description that it would by the law in force in any Province where such property is situate subject to the proprietor, if disqualified, to the jurisdiction of the Court of Wards, the application may be made by the Collector on behalf of the Court of Wards.

* Act XIX. of 1841.

† Act V of 1908.

64. The provisions of sections 40, 41 and 42 shall regulate the
 - Regulation of proceed- proceedings of the District Court with re-
 ings of District Courts gard to the matters to which they relate.

Inquisition by District
 Court and finding
 thereon
 inquisition.

65. (1) The District Court, if it thinks
 fit, may appoint two or more persons to
 Act as assessors to the Court in the said

(2) Upon the completion of the inquisition, the Court shall
 determine whether the alleged lunatic is of unsound mind and
 incapable of managing himself and his affairs or may come to a
 special finding that such alleged lunatic is of unsound mind so
 as to be incapable of managing his affairs but that he is capable
 of managing himself and is not dangerous to himself or to
 others.

66. (1) If the alleged lunatic resides at a distance of more
 Inquisition by subor- than fifty miles from the place where the
 dinate Court on commis- District Court is held to which the appli-
 sion issued by District cation is made, the said Court may issue
 Court and proceedings a commission to any subordinate Court to
 thereon make the inquisition, and such subordinate
 Court shall thereupon conduct the inquisition in the manner here-
 inbefore provided in this Chapter.

(2) On the completion of the inquisition, the subordinate
 Court shall transmit the record of its proceedings with the
 opinions of the assessors if assessors have been appointed, and
 its own opinion on the case; and the District Court shall there-
 upon proceed to dispose of the application in the manner pro-
 vided in section 65, sub-section (2) .

Provided that the District Court may direct the subordinate
 Court to make such further or other inquiries as it thinks fit before
 disposing of the application.

Judicial powers over person and estate of lunatic.

Custody of lunatics and
 management of their
 estates

67 (1) The Court may make orders for
 the custody of lunatics so found by inquisi-
 tion and the management of their estates.

(2) When upon the inquisition it is specially found that the
 person to whom the inquisition relates is of unsound mind so as
 to be incapable of managing his affairs, but that he is capable of
 managing himself, and is not dangerous to himself or to others,
 the Court may make such orders, as it thinks fit for the manage-
 ment of the estate of the lunatic including proper provisions for
 the maintenance of the lunatic and of such members of his
 family as are dependent on him for maintenance, but it shall not
 be necessary to make any order as to the custody of the person
 of the lunatic.

68. If the estate of a lunatic so found or any part thereof consists of property which, by the law for the time being in force, subjects the proprietor, if disqualified, to the jurisdiction of the Court of Wards, the Court of Wards shall be authorised to take charge of the same.

69 (1) If the estate of a lunatic so found consists in whole or in part of land or any interest in land but is not of such a nature that it would subject the proprietor, if disqualified, to the jurisdiction of the Court of Wards, the District Court may direct the Collector to take charge of the person and estate of the lunatic:

Provided that no such order shall be made without the consent of the Collector previously obtained

(2) The Collector shall thereupon appoint a manager of the estate, and may appoint a guardian of the person of the lunatic

70. All proceedings of the Collector in regard to the person or estate of a lunatic under this Chapter shall be subject to the control of the Local Government or of such authority as it may appoint in this behalf.

Power of District Court to appoint guardian and manager and take security from manager.

71. (1) In all other cases the District Court shall appoint a manager of the estate of the lunatic and may appoint a guardian of his person.

Provided that a District Court may, instead of appointing a manager of the estate of a lunatic, exercise any of the powers conferred on the High Court under sections 56 and 59

(2) Any person who has been appointed by the District Court or Collector to manage the estate of a lunatic shall, if so required, enter into a bond in such form and with such sureties as to the Court or the Collector, as the case may be, may seem fit, engaging duly to account for what he may receive in respect of the property of the lunatic.

72. The legal heir of a lunatic shall not be appointed to be the guardian of the person of such lunatic unless the Court or the Collector, as the case may be, for reasons to be recorded in writing considers that such an appointment is for the benefit of the lunatic.

73. A guardian of the person of a lunatic or a manager of his estate appointed under this Chapter shall be paid such allowance, if any, as the Court or the Collector, as the case may be, thinks fit for his care and pains in the execution of his duties.

Duties of guardian **74** (1) The person appointed to be guardian of a lunatic's person shall have the care of his person and maintenance.

(2) When a distinct guardian is appointed, the manager shall pay to the guardian such allowance as may be fixed by the District Court or the Collector, as the case may be, for the maintenance of the lunatic and such members of his family as are dependent on him for their maintenance,

75 (1) Every manager of the estate of a lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a lunatic, and may collect and pay all just claims, debts and liabilities due to or by the estate of the lunatic :

Provided that no manager so appointed shall without the permission of the Court—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property of the lunatic.

(b) lease any such property for a term exceeding five years.

Such permission may be granted subject to any condition or restriction which the Court thinks fit to impose.

(2) Before granting any such permission, the Court may cause notice of the application for such permission to be served on any relative or friend of the lunatic, and may make or cause to be made such inquiries as to the Court may seem necessary in the interests of the lunatic,

76, (1) Every person appointed by the District Court or by Collector to be manager of the estate of a lunatic shall, within six months from the date of his appointment deliver in Court or to the Collector, as the case may be, an inventory of the immoveable property belonging to the lunatic and of all such money, or other moveable property, as he may receive on account of the estate, together with a statement of all debts due by or to the same.

(2) Every such manager shall also furnish to the Court or to the Collector annually, within three months of the close of the year of the era current in the district, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands.

77. If any relative of the lunatic, or the Collector by petition to the Court, impugnes the accuracy of the said inventory and statement, or of any annual account, the Court may summon the manager and inquire summarily into the matter and make such order thereon as it thinks fit ; or the Court, at its discretion, may refer any such petition to any sub-

ordinate Court or to the Collector if the manager was appointed by the Collector.

78. All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the lunatic or of the estate, shall be paid into the public treasury on account of the estate and shall be invested from time to time in any of the securities specified in section 20 of the Indian Trust Act, * 1882, unless the Court or the Collector, as the may case be, for reasons to be recorded in writing directs that such sums be in the interest of the lunatic otherwise invested or applied.

79. Any relative of a lunatic may with the leave of the District Court sue for an account from any manager appointed under this Chapter, or from any such person after his removal from office or trust, or from his legal representative in case of his death, in respect of any estate then or formerly under his care or management or of any sums of money or other property received by him on account of such estate.

80. (1) The District Court, for any sufficient cause, may remove any manager appointed by it not being the curator, and may appoint such curator or any other fit person in his place, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all money received or disbursed by him.

(2) The Court may also, for any sufficient cause, remove any guardian of the person of a lunatic appointed by it and may appoint any other fit person in his place.

(3) The Collector, for any sufficient cause, may remove any manager of the estate of a lunatic or guardian of the person of a lunatic appointed by him; and may appoint any other fit person in place of such manager or guardian; and the District Court on the application of the Collector may compel any manager removed under this section to make over the property and all accounts in his hands to his successor and to account to such successor for all money received or disbursed by him.

81. The District Court may impose a fine not exceeding five hundred rupees on any manager of the estate of a lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the time fixed by the Court, and may realize such fine as if it were a sums due

under a decree of the Court, and may also commit the recusant to the civil jail until he delivers such accounts or property.

82. (1) When any person has been found under this Chapter to be of unsound mind, and it is subsequently shown to the District Court that there is reason to believe that such unsoundness of mind has ceased, such Court may make an order for inquiring whether such person is still of unsound mind and incapable of managing himself and his affairs.

(2) The inquiry shall, as far as may be conducted in the same manner as is prescribed in this Chapter for an inquisition into the unsoundness of mind of an alleged lunatic, and if it is found that the unsoundness of mind has ceased the Court shall order all proceedings in the lunacy to cease or to be set aside on such terms and conditions as to the Court may seem fit.

Appeals.

83. An appeal shall lie to the High Court from any order made by a District Court, under this Chapter.

PART IV.

MISCELLANEOUS.

CHAPTER VI.

ESTABLISHMENT OF ASYLUMS

84. The Local Government may establish or license the establishment of asylums at such places as it thinks fit "if it is satisfied that provision has been and will be made for the curative treatment therein of persons suffering from mental diseases."*

"84A † If in any licensed asylum no provision for curative treatment has been made, or the Local Government considers that the provision made is insufficient the Local Government may require the person in charge of the asylum to take such measures for making or supplementing such provision as it may deem necessary, and, if such person does not comply with the requisition within a reasonable time, the Local Government may revoke the licence"

* The words within quotations and section 84A have been inserted by Act 6 of 1922.

ordinate Court or to the Collector if the manager was appointed by the Collector.

78. All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the lunatic or of the estate, shall be paid into the public treasury on account of the estate and shall be invested from time to time in any of the securities specified in section 20 of the Indian Trust Act,* 1882, unless the Court or the Collector, as the may case be, for reasons to be recorded in writing directs that such sums be in the interest of the lunatic otherwise invested or applied.

79. Any relative of a lunatic may with the leave of the District Court sue for an account from any manager appointed under this Chapter, or from any such person after his removal from office or trust, or from his legal representative in case of his death, in respect of any estate then or formerly under his care or management or of any sums of money or other property received by him on account of such estate.

80. (1) The District Court, for any sufficient cause, may remove any manager appointed by it not being the curator, and may appoint such curator or any other fit person in his place, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all money received or disbursed by him.

(2) The Court may also, for any sufficient cause, remove any guardian of the person of a lunatic appointed by it and may appoint any other fit person in his place.

(3) The Collector, for any sufficient cause, may remove any manager of the estate of a lunatic or guardian of the person of a lunatic appointed by him; and may appoint any other fit person in place of such manager or guardian; and the District Court on the application of the Collector may compel any manager removed under this section to make over the property and all accounts in his hands to his successor and to account to such successor for all money received or disbursed by him.

81. The District Court may impose a fine not exceeding five hundred rupees on any manager of the estate of a lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the time fixed by the Court, and may realize such fine as if it were a sums due

* Act II. of 1882.

under a decree of the Court, and may also commit the recusant to the civil jail until he delivers such accounts or property.

82. (1) When any person has been found under this Chapter to be of unsound mind, and it is subsequently shown to the District Court that there is reason to believe that such unsoundness of mind has ceased, such Court may make an order for inquiring whether such person is still of unsound mind and incapable of managing himself and his affairs.

(2) The inquiry shall, as far as may be conducted in the same manner as is prescribed in this Chapter for an inquisition into the unsoundness of mind of an alleged lunatic, and if it is found that the unsoundness of mind has ceased the Court shall order all proceedings in the lunacy to cease or to be set aside on such terms and conditions as to the Court may seem fit.

Appeals.

83. An appeal shall lie to the High Court from any order made by a District Court, under this Chapter.

PART IV.

MISCELLANEOUS.

CHAPTER VI.

ESTABLISHMENT OF ASYLUMS

84. The Local Government may establish or license the establishment of asylums at such places as it thinks fit "if it is satisfied that provision, has been and will be made for the curative treatment therein of persons suffering from mental diseases."*

84A.† If in any licensed asylum no provision for curative treatment has been made, or the Local Government considers that the provision made is insufficient the Local Government may require the person in charge of the asylum to take such measures for making or supplementing such provision as it may deem necessary, and, if such person does not comply with the requisition within a reasonable time, the Local Government may revoke the licence"

* The words within quotations and section 84A have been inserted by Act 6 of 1922.

85.* "The Magistrate or Courts exercising jurisdiction in any province may send lunatics or any class of lunatics in any asylum situate in any other province in accordance with any general or special order of the Local Government made in that behalf with the consent of the Local Government of such other province."*

CHAPTER VII.

EXPENSES OF LUNATICS.

86 (1) When any lunatic is admitted to a licensed asylum under a reception order or an order under section 25 and no engagement has been taken from the friends, or relatives of the lunatic or order made by the Court for the payment of expenses under the provisions of this Act, the cost of maintenance of such lunatic shall, subject to the provision of any law for the time being in force, be paid by the Government to the person in charge of such asylum

(2) The Paymaster of the military circle within which any asylum is situated shall pay to the officer in charge of such asylum the cost of maintenance of every lunatic received and detained therein under an order made under section 12.

87. Any money in the possession of a lunatic found wandering at large may be applied by the Magistrate towards the payment of the cost of maintenance of the lunatic or of any other expenses incurred on his behalf, and any moveable property found on the person of the lunatic may be sold by the Magistrate and the proceeds thereof similarly applied

88. If a lunatic detained in an asylum on a reception order made under section 14, section 15 or section 17 has an estate applicable to his maintenance, or if any person legally bound to maintain such lunatic has the means to maintain him, the authority which made the reception order or any local authority liable for the cost of maintenance of such lunatic under any law for the time being in force may apply to the High Court or District Court within the local limits of the original jurisdiction of which the estate of the lunatic is situate or the person legally bound to maintain him resides, for an order for the payment of the cost of maintenance of the lunatic.

* Section 85 has been substituted by Act 38 of 1920

89 (1) The Court shall inquire into the matter in a summary way, and on being satisfied that such lunatic has an estate applicable to his maintenance or that any person is legally bound to maintain and has the means of maintaining such lunatic, may make an order for the recovery of the cost of maintenance of such lunatic together with the costs of the application out of such estate or from such person.

(2) Such order shall be enforced in the same manner, and shall be of the same force and effect and subject to the same appeal as a decree made by the said Court in a suit in respect of the property or person therein mentioned.

"89A.* The Governor General in Council may, by general or special order, prescribe the amount payable on account of the cost of maintenance of lunatics detained in any asylum for the cost of whose maintenance any Local Government is liable, and the portions in which such amount shall be payable respectively by the Local Government so liable. Any such amount may include charges on account of the up keep of the asylum and of the capital cost of the establishment of the asylum,"

"89B.* When under the provisions of this Act the cost of the maintenance of a lunatic is payable by the Government, then such cost shall be payable—

(a) in the case of a lunatic not domiciled in British India, by the Local Government of the province in which the reception order or the order under section 25, as the case may be, was made, and

(b) in the case of a lunatic domiciled in British India, by the Local Government of the Province in which the lunatic has last resided for a period of five years before the reception order or order under section 25, as the case may be, was made, or, if the lunatic has not been resident in any province for such period by the Local Government of the province in which such order was made.

(2) If any question arises as to the incidence of the cost of maintenance of any lunatic under sub-section (1) this question shall be referred to the Governor General in Council and his decision shall be final."

90. The liability or any relative or person to maintain any lunatic shall not be taken away or affected by any provision contained in this Act.

* Section 89A and 89B were inserted by Act VI of 1922 s 5

CHAPTER VIII.

RULES

Power of Local Govern-
ment to make rules.

91. (1)* The Local Government may make rules for all or any of the following purposes, namely :—

- (a) to prescribe forms for any proceeding under this Act other than a proceeding before a High Court which is or may hereafter be established under the Indian High Courts Acts, 1861 to 1911 †
 - (b) to prescribe places of detention and regulate the care and treatment of persons detained under section 8 or section 16 ;
 - (c) to regulate the "detention." ‡ care, treatment and discharge of criminal lunatics ,
 - (d) to regulate the management of asylums and the care and custody of the inmates thereof and their transfer from one asylum to another ;
 - (e) to regulate the transfer of criminal lunatics to asylums ;
 - (f) to prescribe the procedure to be followed by District Courts and Magistrates before a lunatic is sent to any asylum established by Government ;
 - (g) to prescribe the asylums established by Government within the province to which lunatics from any area or any class of lunatics shall be sent ;
 - (h) to prescribe conditions subject to which asylums may be licensed ;
 - (i) save as otherwise provided in this Act, generally to carry into effect the provisions of the Act.
- (2) In making any rule under this section the Local Governments may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

92. All rules made under section 91 shall be published in the local official Gazette and shall thereupon have effect as if enacted in this Act.

Publication of rules

* Certain words after this repealed by Act 38 of 1920, have been omitted

† 24 & 25 Vict., c 104, to 1 & 2 Geo. 5, c. 18

‡ The word within quotations have been substituted by Act 11 of 1923

CHAPTER IX.

SUPPLEMENTAL PROVISIONS.

Penalty for improper
reception or detention
of lunatic

93. Any person who—

(a) other wise than in accordance with the provisions of this Act receives or detains a lunatic or alleged lunatic in an asylum, or

(b) for gain detains two or more lunatics in any place not being an asylum,

shall be punishable with imprisonment which may extend to two years or with fine or with both.

94. The provisions of Chapter XLII. of the Code of Criminal Procedure,* 1898, shall, so far as may be, apply to bonds.

95. (1) When any sum is payable in respect of pay, pension, gratuity or other similar allowance to any person by Government and the person to whom the sum is payable is certified by a Magistrate to be a lunatic, the Government officer under whose authority such sum would be payable if the payee were not a lunatic may pay so much the said sum as he thinks fit to the person having charge of the lunatic, and may pay the surplus if any, or such part thereof as he thinks fit for the maintenance of such members of the lunatic's family as are dependent on him for maintenance.

(2) The Secretary of State for India in Council shall be discharged of all liability in respect of any amounts paid in accordance with this section.

96. Subject to any rules, the forms set forth in the First Schedule with such variation as the circumstances of each case may require, shall be used for the respective purposes therein mentioned, and if used shall be sufficient.

97. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

98. Any officer in charge of an asylum may give effect to any order or warrant for the reception and detention of any lunatic made or issued by any Court or tribunal beyond the limits of British India in the exercise of jurisdiction conferred by His Majesty or the Governor-General in Council,

Pension of a lunatic
payable by Govern-
ment.

Use of forms in Sched-
ule.

Protection to persons
acting under Act.

Powers to give effect to
warrants and orders of
certain Courts outside
British India.

* Act V of 1898.

Power to make rules for reception lunatics received from outside British India

99. The "Local Government"* may make rules regulating the procedure for the reception and detention in asylums in "the Province"* of lunatics whose reception and detention are provided for by section 98.

100. (1) In the case of orders made before the commencement of this Act under section 7 of the Indian Lunatic Asylums Act,† 1858, for the reception of persons into an asylum, the persons who signed the order shall have all the powers and be subject to the obligations by this Act conferred or imposed upon the petitioner for a reception order, and the provisions of this Act relating to persons upon whose petition a reception order was made shall apply in the case of a person who has signed an order, under section 7 of the Indian Lunatic Asylums Act,† 1858, before the commencement of this Act as if the order had been made after the commencement of this Act upon a petition presented by him.

(2) All orders for the detention of lunatics made and all undertakings given under any enactment hereby repealed shall have the same force and effect as if they had been made or given under this Act and by or to the authority empowered thereby in such behalf.

101. Repealed by Act X of 1914.

SCHEDULE I.

FORMS,

(See section 96.)

FORM 1.

(Application for Reception Order. See sections 5 and 6.)

In the matter of A, B,‡ residing at _____, by occupation _____,
 , son of _____ : a person alleged to be a lunatic.
 To _____ Presidency Magistrate, for
 [or District Magistrate of _____, or Sub-divisional
 Magistrate of _____ or Magistrate specially empowered
 under Act _____ of 1912 for _____],

* Certain words after this repealed by Act 38 of 1920 have been omitted

† Act XXXVI. of 1858

‡ Full name, caste and titles.

The petition of C D,* residing at _____, by occupation _____, son of _____ in the town of _____ [or sub-division of _____ in the district of _____.]

1 I am _____ ‡ years of age.

2. I desire to obtain an order for the reception of A. B. as a lunatic in the _____ asylum of _____ situate at ‡.

3. I last saw the said A. B. at _____ on the § day of _____.

4. I am the || of the said A. B.

[Or if the petitioner is not a relative of the patient state as follows].—

I am not a relative of the said A. B. The reasons why this petition is not presented by a relative are as follows : [State them.]

The circumstances under which this petition is presented by me are as follows . [State them.]

5. The persons signing the medical certificates which accompany the petition are.¶

6. A statement of particulars relating to the said A. B. accompanies this petition.

7. [If that is the fact] An application for an inquiry into the mental capacity of the said A. B. was made to the _____ on the _____ and a certified copy of the order made on the said petition is annexed hereto. [Or if that is the fact.]

No application for an inquiry into the mental capacity of the said A. B. has been made previous to this application.

The petitioner therefore prays that a reception order may be made in accordance with the foregoing statement.

(Sd.) C. D.

The statements contained or referred to in paragraphs _____ are true to my knowledge, the other statements are true to my information and belief.

(Sd.) C. D.

Dated

* Full name, caste and titles

† Enter the number of completed years The petitioner must be at least eighteen or twenty-one whichever is the age of majority under the law to which the petitioner is subject

‡ Insert full description of the name and locality of the asylum or the name, address and description of the person in charge of the asylum

§ A day within 14 days before the date of the presentation of the petition is requisite.

|| Here state the relationship with the patient.

¶ Here state whether either of the persons signing the medical certificates is a relative, partner or assistant of the lunatic or of the petitioner and, if a relative of either, the exact relationship.

Statement of particulars.

[If any of the particulars in this statement is not known, the fact to be so stated]

The following is a statement of particulars relating to the said A. B.—

Name of patient at length.

Sex and age.

Married, single or widowed

Previous occupation.

Caste and religious belief, as far as known

Residence at or immediately previous to the date hereof.

Names of any near relatives to the patient who are alive.

Whether this is first attack of lunacy

Age (if known) on first attack

When and where previously under care and treatment as a lunatic.

Duration of existing attack

Supposed cause.

Whether the patient is subject to epilepsy.

Whether suicidal.

Whether the patient is known to be suffering from phthisis or any form of tubercular disease

Whether dangerous to others and in what way,

Whether any near relative (stating the relationship) has been afflicted with insanity,

Whether the patient is addicted to alcohol, or use of opium, ganja, charas, bhang, cocaine or other intoxicant.

(The statements contained or referred to in paras. are true to my knowledge The other statements are true to my information and belief.)

[Signature by person making the statement.]

FORM 2.

Reception order on Petition.

(See sections 7, 10.)

I, the undersigned E. F, being a Presidency Magistrate of
[or the District Magistrate of or the Sub-divisional Magistrate of or a Magistrate of the first class specially empowered by Government to perform the functions of a Magistrate under Act of 1912] upon the petition of C. D. of*
in the matter of A. B.,* a lunatic, accompanied by the medical certificates of G. H., a medical officer, and of J. K., a medical practitioner [or medical officer], under the said Act, hereto

* Address and description.

annexed, hereby authorise you to receive the said A. B. into your asylum. And I declare that I have [*or have not*] personally seen the said A. B. before making this order.

(Sd.) E. F.

(*Designation as above.*)

To*

FORM 3.

Medical Certificate.

(*See sections 18, 19.*)

In the matter of A. B. off in the town of [*or*
the subdivision of in the district of an alleged
lunatic.

I, the undersigned C D., do hereby certify as follows :

1. I am a gazetted medical officer [*or* a medical practitioner declared by Govern-
a holder of† [*or* declared by Local Government to be a medical practi-
tioner under Act of 1912]
ment to be medical officer under Act of 1912]

and I am in the actual practice of the medical profession.

2. On the day of 19 at§ in the ^{town}_{village} of
[*or* the sub division of in the district of]
[separately form any other practitioner]||, I personally examined
the said A. B. and came to the conclusion that the said A. B. is a
lunatic and a proper person to be taken charge of and detained
under care and treatment.

3. I formed this conclusion on the following grounds, *viz.* :—

(a) Facts indicating insanity observed by myself, *viz.* —

(b) Other facts (if any) indicating insanity communicated to
me by others, *viz.* :—

Here state the information and from whom.

(Sd) C D

(*Designation as above*)

FORM 4

Reception Order in case of Lunatic Soldier.

(*See section 12*)

Whereas it appears to me that A B., a European, subject to
the army Act, who has been declared a lunatic in accordance

* To be addressed to the officer or person in charge of the asylum

† Insert residence of patient

‡ Insert qualification to practise medicine and surgery registrable in the
United Kingdom

§ Insert place of examination

|| Omit this where only one certificate is required

with the provisions of the military regulations, should be removed to an asylum, I do hereby authorise you to receive the said A. B. into your asylum.

(Sd.) E. F.

(*Administrative Medical Officer.*)

To*

FORM 5

Reception Order in case of wandering or dangerous lunatics or lunatics not under proper control or cruelly treated (sent to an asylum established by Government).

See sections 14, 15, 17

I, C. D., Presidency Magistrate or [or Commissioner of Police for] [or the District Magistrate of or the Sub-divisional Magistrate of or a Magistrate specially empowered by Government under Act of 1912] having caused A. B. to be examined by E. F., a Medical Officer under the Indian Lunacy Act, 1912, and being satisfied that A. B. [*describing him*] is a lunatic who was wandering at large [or is a person dangerous by reason of lunacy] [or is a lunatic not under proper care and control or is cruelly treated or neglected by the person having the Care or charge of him] and a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said A. B. into your asylum.

(Sd.) C. D.

(*Designation as above.*)

Dated the

To the Officer in Charge of the asylum at

FORM 6.

Same when sent to a licensed asylum.

I, C. D., [*as above down to "care and treatment"*] and being satisfied with the engagement entered into in writing by G. H. of [*here insert address and description*] who has desired that the said A. B. may be sent to the asylum at [*here insert description of asylum and name of the person in charge*] to pay the cost of maintenance of the said A. B., in the said asylum, hereby authorize you to receive the said A. B. into your asylum,

(Sd.) C. D.

(*Designation as above*)

Dated the

To the person in charge of the asylum at

* To be addressed to the person in charge of an asylum duly authorized by Government to receive lunatic Europeans subject to the Army Act

FORM 7

*Bond on the making over of a lunatic to the care of relative
or friend.*

(See sections 14, 15, 17)

Whereas A. B., son of _____, inhabitant of _____, has been brought up before C. D., a Presidency Magistrate for the town of _____ [or Commissioner of Police for _____] or the ^{District} Sub divisional Magistrate of _____ or a Magistrate of the first class specially empowered under Act _____ of 1912] and is a lunatic who is believed to be dangerous [or deemed to be a lunatic who is not under proper care and control or is cruelly treated or neglected by the person having the charge of him] and whereas I, E. F., son of _____ inhabitant of _____, have applied to the Magistrate [or Commissioner of Police) that the said A. B. may be delivered to my care :

I, E. F., abovenamed hereby bind myself that on the said A. B. being made over to my care, I will have the said A. B. properly taken care of and prevented from doing injury to himself or to others : and in case of my making default therein, I hereby bind myself to forfeit to His Majesty the King-Emperor of India, the sum of rupees

Dated this day of _____

19

(Sd.) E. F.

(Where a bond with sureties is to be executed and)—We _____ do hereby declare ourselves sureties for the abovenamed E. F. that be will, on the aforesaid A. B. being made over to his care, have the said A. B. properly taken care of and prevented from doing injury to himself or to others, and in case of the said E. F. making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the King-Emperor of India, the sum of rupees.

Dated this _____

day of 19 .

(Signature,)

FORM 8.

Bond on the discharge of a lunatic from an asylum on the undertaking of relatives or friend to take due care.

(See section 33.)

Whereas A. B., son of _____, inhabitant of _____, is a Lunatic who is now detained in the asylum at _____ under an order made by C. D., a Presidency Magistrate for the town of _____

[or Commissioner of Police for _____]

[or the ^{District}
Subdivisional Magistrate of _____, or

a Magistrate of the first class specially empowered under Act

of 1912] under section 14 [or section 15] of Act _____ of 1912 and whereas I, E. F., son of _____, inhabitant of _____, have applied to the said Magistrate [or Commissioner of Police] that the said A. B. may be delivered to my care and custody :

I hereby bind myself that on the said A. B. being made over to my care and custody, I will have him properly taken care of and prevented from doing injury to himself or to others ; and in case of my making default therein I hereby bind myself to forfeit to His Majesty the King-Emperor of India, the sum of Rupees _____,

Dated this _____ day of _____ 19 _____,

(Sd.) E. F.

Where a bond with sureties is to be executed add—We do hereby declare ourselves sureties for the abovenamed E. F. that the will, on the aforesaid A. B. being delivered to his care and custody, have the said A. B. properly taken care of and prevented from doing injury to himself or to others, and in case of the said E. F. making default therein, we bind ourselves, jointly, and severally, to forfeit to His Majesty the King Emperor of India, the sum of rupees _____,

Dated this _____ day of _____ 19 _____.

Signature.)

ACT NO. V OF 1912.

The Provident Insurance Societies Act, 1912

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 18th
March, 1912.*

An Act to provide for regulation of Provident Insurance Societies

Whereas it is expedient to provide for the regulation of Provident Insurance Societies, It is hereby enacted as follows :—

Preliminary.

Short title and extent **1.** (1) This Act may be called the Provident Insurance Societies Act, 1912; and

(2) It extends of the whole of British India, inclusive of British Baluchistan, the Sanhal Parganas and the Pargana of Spiti

Definitions.

2 In this Act, unless there is anything repugnant in the subject or context —

(1) "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in the exercise of its ordinary original civil jurisdiction.

(2) "financial year" means each period of twelve months at the end of which the balance of the accounts of any Provident Insurance Society is struck, or, if no such balance is struck, then the calendar year :

(3) "life assurance business" means the issue of, or the undertaking of liability under, policies of assurance upon human life, or the granting of annuities upon human life.

(4) "policy of assurance on human life" means any instrument by which the payment of money is assured on death (except death by accident only, or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life).

(5) "policy-holder" means the person who for the time being is the legal holder of the policy for securing the contract with the Provident Insurance Society :

(6) where a Provident Insurance Society grants annuities upon human life, "policy" includes the instrument evidencing the

contract to pay such an annuity and "policy-holder" includes annuitant :

(7) "prescribed" means prescribed by rules made under this Act .

(8) "Provident Insurance Society" means any person who, or body of persons whether corporate or unincorporate which, receives premiums or contributions for insuring money to be paid on the birth, marriage or death of any person or on the happening of such other contingency or class of contingency as may be prescribed and

(9) "Registrar" means any person who may be appointed by the Local Government to perform the duties of the Registrar under this Act.

3. Nothing in this Act shall apply to any Provident Insurance Society carrying on life assurance business which undertakes to pay on any life assurance policy or series of life assurance policies on any one life an annuity exceeding fifty rupees or a gross sum exceeding five hundred rupees, or which receives or undertakes to receive by way of premium or contribution for life assurance on any one life any sum exceeding two hundred and fifty rupees where the said premiums or contributions are payable for one year or a limited number of years, or exceeding twenty five rupees in any one year where the premiums or contributions are unlimited in number and terminable on death or the occurrence of an uncertain event :

Provided that in determining whether this Act applies to any provident insurance society, carrying on life insurance business, contacts entered into by the society before the commencement of this Act shall not be taken into consideration.

General.

4. No Provident Insurance Society shall receive any premium or contribution for insuring money to be paid on the death of any person other than the person paying such premium or contribution, or the wife, husband, child, parent, brother or sister of such person.

Insurable interest
Provision to be made by rules.

5 Every Provident Insurance Society shall by its rules—

- (a) specify the object, name and registered office of the society ;
- (b) prescribe the proportion of the annual income of the society derived from premiums or contributions which may be disbursed for the expenses of management of the society ,
- (c) in the case of a society which by rule or practice divides

any part of the funds thereof provided for the payment of all debts due by the society existing at the time of division before any such division has taken place ; and

(d) provide for any other matters which may be prescribed

6 (1) Every Provident Insurance Society shall, within three months from the commencement of this Act, or, if established after the commencement of this Act, before it receives any premium or contribution, apply to the Registrar for that part of British India in which the office of the society is situate for registration under this Act, and shall deliver to him a copy of the rules of the society

(2) The Registrar shall on being satisfied that such rules comply with the provisions of this Act, acknowledge the receipt of the rules and register the society and its rules

(3) If the Registrar is not satisfied that the rules or any of them comply with the provisions of this Act, he shall send to the Provident Insurance Society a notice by post stating in what respect such rule or rules is or are not in accordance with the provisions of this Act, and calling upon such society to deliver to him an amended rule or rules within sixty days.

(4) On receipt of a notice under sub section (3) the Provident Insurance Society may within sixty days deliver to the Registrar an amended rule or rules in conformity with this Act, and the Registrar shall thereupon acknowledge the receipt of the rules and register the society and its rules as hereinbefore provided.

7. No Provident Insurance Society shall receive any premium or contribution unless it is registered in accordance with the provisions of this Act ;

Unregistered society not to receive premium or contribution
Provided that this prohibition shall only apply to a society established before the commencement of this Act—

(a) when such society has applied for registration in accordance with the provisions of section 6, sub-section (1)—from the date of the order of the Registrar refusing registry ;

(b) when such society has not applied as aforesaid—after three months from the commencement of this Act.

8 (1) No amendment of any rule of a Provident Insurance Society shall be valid until the same has been registered under this Act, for which purpose a copy of the amended rule shall be sent to the Registrar.

(2) The Registrar shall, on being satisfied that any amendment of a rule is not contrary to the provisions of this Act, issue to the society an acknowledgment of the registration of the same.

9 Every Provident Insurance Society shall, on demand, deliver free of cost to any member of the society a copy of the rules of the society, and to any person other than a member a copy of such rules on the payment of a sum not exceeding one rupee.

10 Every Provident Insurance Society which is not registered under the Indian Companies Act,* 1882, shall cause to be kept in the prescribed form a register of the names and addresses of its members.

11 Where any notice, advertisement or other official publication of a Provident Insurance Society contains a statement of the amount of the authorised capital of the society, the publication, shall also contain a statement of the amount of the capital which has been subscribed and the amount paid up

12 Every Provident Insurance Society which is not registered under the Indian Companies Act,* 1882, shall have an office on the outside of which it shall display and keep displayed its name in a conspicuous position in legible letters, to which all communications and notices may be addressed, and shall give notice to the Registrar of the situation of such office and of any change therein.

13. Every Provident Insurance Society shall, at the expiration of each financial year, prepare a revenue-account and balance-sheet in the prescribed form and verified in the prescribed manner, and shall cause them to be audited by an auditor possessing the prescribed qualifications

14. Every Provident Insurance Society shall, within six months of the expiration of each financial year, deliver to the Registrar the revenue-account and balance sheet required by section 13, and shall publish them in the prescribed manner

15. Every Provident Insurance Society shall maintain in the prescribed form a record of every insurance effected on a life other than the life of the person insuring, and shall deliver a copy of such record to the Registrar together with the balance-sheet and revenue-account

16. The books of every Provident Insurance Society shall at all reasonable hours be open to inspection by the Registrar, or by any person appointed by him in this behalf, or by any member of the society

* Act VI of 1882

17. (1) The Registrar may, if he thinks fit, of his own motion, and shall, upon the application of ten or more members or policy-holders of a Provident Insurance Society, hold or direct an inquiry to be held by an actuary possessing the prescribed qualifications appointed by him by order in writing in this behalf as to the solvency of any Provident Insurance Society or as to the manner in which the business of any such society is conducted

(2) An application to the Registrar under sub-section (1) shall be supported by such evidence as the Registrar may require for the purpose of showing that the applicants have good reason for applying for an enquiry

(3) The Registrar may require the applicants under sub-section (1) to give such security as he thinks fit for the costs of the proposed inquiry before such an inquiry is held

(4) All expenses of and incidental to or preliminary to any inquiry made on application as aforesaid shall be defrayed by the applicants therefor or out of the funds of the society or by the members or officers of the society in such proportion, as the Registrar may direct by order in writing

(5) An order made under sub section (4) shall on application be enforced by any Civil Court having local jurisdiction in the same manner as a decree of such Court.

(6) A person holding an inquiry under this section shall have access to all the books and document of the society, and shall have power to call upon the society and the officers of the society to furnish such statements and other information in relation to its business as he may direct.

(7) The result of the inquiry shall be communicated to the society and to the applicants (if any).

18. When an inquiry has been held under section 17, the Registrar may if he is satisfied,

(a) that the society is insolvent, or must necessarily become so, or

(b) that the business of any such society is conducted fraudulently or not in accordance with the rules thereof,

after giving previous notice in writing in such manner as he thinks fit specifying briefly the grounds of the proposed cancellation, cancel the registry of the society.

19. (1) Where the registry of a Provident Insurance Society is cancelled in accordance with the provisions of section 18, the Registrar may appoint a liquidator to wind up the society.

Offences and Procedure.

21. Any Provident Insurance Society which makes default in complying with any of the requirements of this Act, and every director, manager or secretary, or other officer or agent of the society, who is knowingly a party to the default, shall be punishable with fine which may extend to five hundred rupees, or, in the case of a continuing default, with fine which may extend to two hundred and fifty rupees for every day during which the default continues.

22 If any register, account, balance-sheet or other document required by this Act is false in any particular to the knowledge of any person who signs it, such person shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both

23. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act,

Rules.

24 (1) The Local Government may make rules to carry out the purposes of this Act.
(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) contingencies or classes of contingencies and thereby extend the application of this Act to the receipt of premiums or contributions for insuring money to be paid on the happening of such contingencies or class of contingencies ;
- (b) the matters in respect of which a society shall make rules ;
- (c) the form of any account, return or register required by this Act, and the manner in which any such account, return or register shall be verified ;
- (d) the fees to be charged for matters transacted under this Act and the manner in which the same are to be collected ;
- (e) the qualifications of auditors and actuaries under this Act ;
- (f) the manner in which any document required to be published by this Act shall be published ; and
- (g) The procedure to be followed by liquidators under this Act.

(3) The power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication.

(4) All rules made under this Act shall be published in the local official Gazette, and on such publication shall have effect as if enacted therein.

Miscellaneous.

25. No policy effected before the commencement of this Act with a Provident Insurance Society shall be deemed to be void by reason only that the insurance is not authorised by this Act.

Saving of existing policies.

26. The Local Government may, by notification in the local official Gazette and subject to such conditions and restrictions as it thinks fit, exempt any Provident Insurance Society or class of Provident Insurance Societies from all or any of the provisions of this Act.

Power of Local Government to exempt from provisions of the Act.

ACT NO VI, OF 1912

The Indian Life Assurance Companies Act. 1912.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

*Received the assent of the Governor-General on
the 18th March, 1912*

An Act to provide for the regulation of Life Assurance Companies.

Whereas it is expedient to provide for the regulation of life assurance companies, It is hereby enacted as follows :—

Preliminary.

1 (1) This Act may be called the Indian Life Assurance Companies Act, 1912
Short title and extent.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

2. In this Act, unless there is anything repugnant in the subject or context,—
Definitions.

(1) “actuary” means an actuary possessing such qualifications as may be prescribed by rules made by the Governor General in Council.

(2) “chairman” means the person for the time being presiding over the board of directors or other governing body of a life assurance company :

(3) “Court” means the principal Civil Court of original jurisdiction in a district, and includes the High Court in the exercise of its ordinary original civil jurisdiction.

(4) “financial year” means each period of twelve months at the end of which the balance of the accounts of the life assurance company is struck, or if no such balance is struck, then the calendar year

(5) “life assurance business” means the issue of, or the undertaking of liability under policies of assurance upon human life, or the granting of annuities upon human life

(6) “policy of assurance on human life” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is

subject to payment of premiums for a term dependent on human life

(7) "policy-holder" means the person who for the time being is the legal holder of the policy for securing the contract with the life assurance company

(8) where a company grants annuities upon human life, "policy" includes the instrument evidencing the contract to pay such an annuity, and 'policy-holder' includes annuitant and

(9) "Registrar" means any person who may be appointed by the Local Government to perform the duties of the Registrar under this Act

3. Save as hereafter expressly provided, this Act shall apply to all persons or bodies of persons, whether Companies to which Act applies corporate or unincorporate, (which persons and bodies of persons are hereafter referred to as life assurance companies) whether established before or after the commencement of this Act and whether established within or without British India, who carry on life assurance business within British India

Explanation.—A company registered under the Indian Companies Act,* 1882 which carries on life assurance business in any part of the world shall for the purposes of this section be deemed to be a company carrying on such business within British India.

Exception.—Nothing in this Act shall apply to any society to which the Provident Insurance Societies Act, 1912, applies, or to any Fund which the Governor-General in Council may, by notification in the Gazette of India, exempt from the operation of this Act.

Deposits.

4. (1) Every life assurance company shall, if established before the commencement of this Act, Deposit within one year from such commencement, or, if established after such commencement, before it commences to carry on the business of life assurance, deposit and keep deposited with the "Comptroller of currency,"† for and on behalf of the Governor-General in Council, Government securities as defined by the Indian Securities Act,‡ 1886, of the face value of twenty five thousand rupees or of a face value equal to one third of the income derived from life assurance business as shown in the revenue account for the last financial year, whichever is greater, and, until the company keeps deposited securities of the face value of two hundred thousand rupees, shall annually

* Act VI. of 1882

† The words within quotations have been inserted by Act XIII. of 1914

‡ Act XIII of 1886.

deposit and keep deposited like manner like securities of a face value—

- (a) equal to one-third of the income derived from life assurance business as shown in the revenue account for the last financial year, until the face value of the securities deposited exceeds one hundred thousand rupees ,
- (b) and thereafter equal in amount to one third of the increase to the life assurance fund as shown in the revenue account for the last financial year

Provided that a company may at any time deposit securities of a face value of two hundred thousand rupees or make up its deposit of securities to that value.

(2) The interest accruing due on the securities deposited under sub-section (1) shall be paid to the company.

(3) The deposit may be made by the subscribers of the memorandum of association of a company or any of them, in the name of a proposed company, and, upon the incorporation of the company, shall be deemed to have been made by, and to be part of the assets of the company, and the Registrar of Joint Stock Companies shall not issue a certificate of incorporation of the company under the Indian Companies Act,* 1882, until the deposit has been made.

(4) The deposit shall be deemed to form part of the life assurance fund of the company

Accounts and Documents.

5. In the case of a life assurance company transacting other business besides that of life assurance, a separate account shall be kept of all receipts in respect of the life assurance business, and the said receipts shall be carried to and form a separate fund to be called the life assurance fund.

Explanation — Nothing in this section shall be deemed to require any life assurance fund to be invested in separate investments from any other fund, but a separate balance-sheet as prescribed under section 7 shall be kept in respect of the life assurance fund.

Exception.—Nothing in this section shall apply to a life assurance company established before the commencement of this Act, by the terms of whose deed of settlement the whole of the profits of all the business carried on by the company are paid exclusively to the life policy holders, and on the face of whose life policies the liability of the life assurance fund in respect of the other business distinctly appears.

* Act VI of 1882.

6. The life assurance fund shall be as absolutely the security of the life policy-holders as though it belonged to a company carrying on no other business than life assurance business and shall not be liable for any contracts of the company for which it would not have been liable had the business of the company been only that of life assurance, and shall not be applied, directly or indirectly, for any purposes other than those of life assurance.

Exception—Nothing in this section shall affect the liability of the life assurance fund, in the case of a company established before the commencement of this Act, for contracts entered into by the company before such commencement

7. Every life assurance company shall, at the expiration of each financial year prepare—

- (a) a revenue account for the year in the form or forms set forth in the First Schedule and applicable to the class or classes of business carried on by the company ;
- (b) a profit and loss account in the form set forth in the Second Schedule, except where the company carries on life assurance business only and no other business ;
- (c) a balance-sheet or balance-sheets in the form or forms set forth in the Third Schedule ,
- (d) a statement containing the name of every person who during the year was a member of the board of directors or other governing body or was manager or secretary or held any similar office by whatever name called.

8 (1) Every life assurance company shall once in every five years, or at such shorter intervals as may be prescribed by the instrument constituting the company, or by its regulations or bye laws, cause an investigation to be made into its financial condition, including a valuation of its liabilities by an actuary and shall cause an abstract of the report of such actuary to be made in the form set forth in the Fourth Schedule.

(2) The provision of sub section (1) regarding the making of an abstract shall also apply whenever at any other time an investigation into the financial condition of a life assurance company is made with a view to the distribution of profits, or whenever the results of any such investigation are made public

9. In the case of a mutual life assurance company whose profits are allocated to members wholly or mainly by annual abatements of premium the abstract of the report of the actuary on the financial condition of the company, prepared in accordance with the Fourth Schedule, may, notwithstanding anything in section 8, be made and returned at intervals not exceeding five years ; Provided that, where such return is not made annually

it shall include particulars as to the rates of abatement of premiums applicable to different classes or series or assurances allowed in each year during the period which has elapsed since the previous return under the Fourth Schedule.

10 Every life assurance company shall, within three years from the commencement of this Act, and thereafter at the date to which the accounts of the company are made up for the purposes of the investigation prescribed by section 8, prepare a statement of its assurance business in the form set forth in the Fifth Schedule ; Provided that, if the investigation is made annually by any company, the company may prepare such a statement at any time, so that it be made at least once in every five years.

11 (1) Every account, balance-sheet, abstract or statement herein before required to be made shall be printed, and four copies thereof, one of which shall be signed by the chairman and two directors of the company, and by the principal officer of the company, and if the company has a managing director, by the managing director, shall be deposited with the Governor General in Council within six months in the case of accounts and balance-sheets required by section 7, and within one year in other cases after the close of the period to which the account, balance-sheet, abstract or statement relates, Provided that, if in any case it is made to appear to the Governor-General in Council that the circumstances are such that a longer period should be allowed, he may extend that period by such period as he may think fit

(2) The Governor-General in Council shall consider any document deposited in accordance with the provisions of sub-section (1) and, if any such document appears to the Governor-General in Council to be inaccurate or defective in any respect, the Governor General in Council may call upon the company to furnish a further statement correcting any such inaccuracies or supplying any such deficiency.

12. There shall be deposited with every revenue account and balance sheet of a life assurance company every report on the affairs of the company submitted to the shareholders or policy holders of the company in respect of the financial year to which the account and balance sheet relate

13. Where a life assurance company registered under the Indian Companies Act, 1882, in any year deposits its accounts and balance-sheet in accordance with the provisions of section 11 the company may, at the same time send to the Registrar of Joint Stock Companies a copy of such

accounts and balance sheet, and, where such copy is so sent, it shall not be necessary for the company to file a balance sheet with the Registrar of Joint Stock Companies as required by section 74 of the Indian Companies Act,* 1882, and the copy of the accounts and balance sheet so sent shall be dealt with in all respects as if it were a balance-sheet filed in accordance with that section.

14. A printed copy of the accounts, balance-sheet, abstract or statement last deposited shall, on the application of any shareholder or policyholder of the company, be forwarded to him by the company by post or otherwise.

Right of shareholders &c. to copies of accounts &c.

15. The accounts of every life assurance company shall be audited annually in such manner as the Governor General in Council may prescribe.

Audit of accounts.

16. Every life assurance company which is not registered under the Indian Companies Act* 1882, shall keep a list of the names and address of its shareholders, and shall, on the application of any shareholder or policy-holder of the company, furnish to him a copy of such list on payment of a sum not exceeding two annas for every hundred words required to be copied.

List of shareholders

17. Every life assurance company which is not registered under the Indian Companies Act,* 1882, shall cause a sufficient number of copies of its deed of settlement or other instrument constituting the company to be printed, and shall, on the application of any shareholder or policy holder of the company, furnish to him a copy of such deed of settlement or other instrument on payment of a sum not exceeding one rupee.

Deed of settlement

18. Where any notice, advertisement or other official publication of a life assurance company contains a statement of the amount of the authorized capital of the company, the publication shall also contain a statement of the amount of the capital which has been subscribed and the amount paid up.

Publication of authorized, as well as subscribed and paid-up capital

19 (1) Every life assurance company, constituted outside British India which establishes a place of business within British India, or appoints an agent in British India with the object of obtaining life assurance business shall, within three months from the establishment of the place of business or the appointment of such agent, file with the Registrar—

Requirements as to companies established outside British India

(a) a certified copy of the charter, statutes or memorandum

* Act VI of 1882.

and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof ;

(b) a list of the directors of the company ,

(c) the names and addresses of some one or more persons resident in British India authorized to accept on behalf of the company service of process and any notes required to be served on the company ,

and, in the event of any alteration being made in any such instrument or in the list of directors or in the names and addresses of such persons as aforesaid, the company shall, within such time as the Governor-General in Council may prescribe, file with the Registrar a notice of the alteration.

(2) Any process or notice required to be served on the company shall be sufficiently served if addressed to any person whose name has been so filed as aforesaid and left at or sent by post to the address which has been so filed.

(3) There shall be paid to the Registrar for registering any document, required by this section to be filed a fee of five rupees or such smaller fee as the Governor-General in Council may prescribe.

Amalgamation or Transfer.

20. (1) Where it is intended to amalgamate two or more life assurance companies, or to transfer the life assurance business of one company to another, the directors of any one or more of such companies may apply to the Court, by petition, to sanction the proposed arrangement.

(2) Before any such application is made to the Court—

(a) notice of the intention to make the application shall be published in the Gazette of India and in the local official Gazette of the Province in which the principal place of business of the company is situate at least two months before the application is made ;

(b) a statement of the nature of the amalgamation or transfer, as the case may be together with an abstract containing the material facts embodied in the agreement or deed under which the amalgamation or transfer is proposed to be effected, and copies of the actuarial or other reports upon which the agreement or deed is founded, including a report by an independent actuary, shall, unless the Court otherwise directs, be transmitted to each policy-holder of each company and

- (c) the agreement or deed under which the amalgamation or transfer is effected shall be open for the inspection of the policy-holders and shareholders at the offices of the companies for a period of fifteen days after the last publication of the notice.

(3) The Court, after hearing the directors and other persons whom it considers entitled to be heard upon the petition, may sanction the arrangement if it is satisfied that no sufficient objection to the arrangement has been established

(4) The Court shall not sanction the amalgamation or transfer in any case in which it appears to the Court that the life policy-holders representing one-tenth or more of the total amount assured in any company which it is proposed to amalgamate, or in any company the business of which it is proposed to transfer, dissent from the amalgamation or transfer.

(5) No life assurance company shall amalgamate with another, or transfer its business to another, unless the amalgamation or transfer is sanctioned by the Court in accordance with this section

21 Where an amalgamation takes place between any life assurance companies, or where any life assurance business of one such company is transferred to another company, the combined company or the purchasing company, as the case may be, shall, within one month from the date of the completion of the amalgamation or transfer, deposit with the Governor-General in Council—

Statement in case of
amalgamation or trans-
fer

- (a) certified copies of statements of the assets and liabilities of the companies concerned in such amalgamation or transfer, together with a statement of the nature and terms of the amalgamation or transfer, and
- (b) a certified copy of the agreement or deed under which the amalgamation or transfer is effected, and
- (c) certified copies of the actuarial or other reports upon which that agreement or deed is founded, and
- (d) a declaration under the hand of the chairman of each company, and the principal officer of each company, that to the best of their belief every payment made or to be made to any person whatsoever on account of the amalgamation or transfer is therein fully set forth, and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any parties to the amalgamation or transfer.

Winding up.

22. The Court may order the winding up of a life assurance company, in accordance with the Indian Companies Act,* 1882, and the provisions of that Act shall apply accordingly, subject, however, to the modification that the company may be ordered to be wound up—

Special provisions as to winding up of assurance companies

(a) on the petition of ten or more policy-holders

Provided that such a petition shall not be presented except by the leave of the Court, and leave shall not be granted until a *prima facie* case has been established to the satisfaction of the Court, and until security for costs for such amount as the Court may think reasonable has been given; or

(b) on application made on behalf of the Governor-General in Council, showing that from a consideration of the documents deposited with him under the provisions of this Act it appears to him that the company is insolvent.

23. (1) Where a life assurance business or any part of the life assurance business of a life assurance company has been transferred to another company under an arrangement in pursuance of which the first mentioned company (in this section called the subsidiary company) or the creditors thereof has or have claims against the company to which such transfer was made (in this section called the principal company), then, if the principal company is being wound up by or under the supervision of the Court, the Court shall (subject as hereinafter mentioned) order the subsidiary company to be wound up in conjunction with the principal company and may by the same or any subsequent order appoint the same person to be liquidator for the two companies, and make provision for such other matters as may seem to the Court necessary, with a view to the companies being wound up as if they were one company.

(2) The commencement of winding up of the principal company shall, save as otherwise ordered by the Court, be the commencement of the winding up of the subsidiary company.

(3) In adjusting the rights and liabilities of the members of the several companies between themselves, the Court shall have regard to the constitution of the companies, and to arrangements entered into between the companies, in the same manner as the Court has regard to the rights and liabilities of different classes of contributories in the case of the winding up of a single company, or as near thereto as circumstances admit.

* Act VI. of 1882.

(4) Where any company alleged to be subsidiary is not in process of being wound up at the same time, as the principal company to which it is subsidiary, the Court shall not direct the subsidiary company to be wound up unless, after hearing all objections (if any), that may be urged by or on behalf of the company against its being wound up, the Court is of opinion that the Company is subsidiary to the principal company, and that the winding up of the company in conjunction with the principal company is just and equitable

(5) An application may be made in relation to the winding up of any subsidiary company in conjunction with a principal company by any creditor of, or person interested in, the principal or subsidiary company

(6) Where a company stands in the relation of a principal company to one company, and in the relation of a subsidiary company to some other company, or where there are several companies standing in the relation of subsidiary companies to one principal company, the Court may deal with any number of such companies together or in separate groups as it thinks most expedient upon the principles laid down in this section.

24. Where a life assurance company is being wound up by the Court or subject to the supervision of the Court, or voluntarily, the value of a policy or of a liability under a policy requiring to be valued in such winding up shall be estimated in manner applicable to policies and liabilities provided by the Sixth Schedule.

25. The rules in the Sixth Schedule shall be of the same force, and may be repealed, altered or amended as if they were rules made in pursuance of a section 254 of the Indian Companies Act, 1882,* and rules may be made under that section for the purpose of carrying into effect the provisions of this Act with respect to the winding up of life assurance companies.

26. The Court, in the case of a life assurance company which has been proved to be unable to pay its debts, may, if it thinks fit, reduce the amount of the contracts of the company upon such terms and subject to such conditions as it thinks just, in place of making a winding up order.

* Act VI of 1882.

Special Provisions relating to accounts and Documents.

27. The Governor-General in Council may, direct any documents deposited with him under this Act, or certified copies thereof, to be kept by the Registrar or by any other officer appointed in this behalf, and any such documents and copies shall be open to inspection, and copies thereof may be procured by any person on payment of such fees as the Governor-General in Council may direct.

28 The Governor-General in Council shall annually cause to be published in such manner as he may direct "a summary of"* the accounts, balance sheets, abstracts, statements and other documents under this Act, or purporting to be under this Act, deposited with him during the preceding year "by every life assurance company"* except reports on the affairs of life assurance companies submitted to the shareholders or policy holders thereof and may append "such summary"* any note of the Governor General in Council thereon, and any correspondence in relation thereto.

29. Every document deposited under this Act with the Governor-General in Council, and certified by the Registrar or by any persons appointed in that behalf by the Governor-General in Council to be a document so deposited, shall be deemed to be a document so deposited.

30. Every document purporting to be certified by the Registrar, or by any person appointed in that behalf by the Governor General in Council, to be a copy of a document so deposited, shall be deemed to be a copy of that document and shall be received in evidence as if it were the original document unless some variation between it and the original document be proved

31. The Governor General in Council may, on the application or with the consent of a life assurance company, alter the forms contained in the Schedule to this Act as respects that company, for the purpose of adapting them to the circumstances of that company.

Companies carrying on business in the United Kingdom.

32 (1) An assurance company which carries on life as surance business in the United Kingdom in accordance with the Assurance Companies Act,† 1909 may, if carrying on life assurance business in British India before the commencement of this Act, within three months of such commencement, or,

* The words within quotations have been inserted by Act 24 of 1917

† 9 Edw. VII, cap 49.

in any other case, before it commences to carry on life assurance business in British India apply to the Governor-General in Council for a declaration that it so carries on such business in the United Kingdom.

(2) A company applying under the provisions of sub-section (1) shall furnish, at the time of its application or at such further time as the Governor-General in Council may prescribe, such evidence as he may direct of the facts alleged in its application.

(3) Where the Governor-General in Council is satisfied that a life assurance company applying as aforesaid is a life assurance company which carries on business in the United Kingdom in accordance with the Assurance Companies Act, 1909, he shall, by notification in the Gazette of India, make a declaration to that effect, and shall cause such notification to be republished in the local official Gazette of the Province where the Company has or proposes to have its principal place of business.

33. Where the Governor-General in Council has notified a declaration in accordance with the provision of section 32 in respect of a life assurance company, nothing in section 4, section 5, sections 7 to 12, sections 15, 20, 21 or 37 shall apply to the company.

Application of the Act to companies which carry on life assurance business in the United Kingdom

Provided that—

(1) the company shall deposit with the Governor-General in Council, in the manner prescribed in section 11, copies of every account, balance sheet, abstract, statement or other document which the company is required by the Assurance Companies Act 1909, to deposit at the Board of Trade,

(2) if, at any time, a company in respect of which a declaration has been notified under section 32 ceases to carry on life assurance business in the United Kingdom in accordance with the provisions of the Assurance Companies Act, 1909 it shall, if it continues to carry on life assurance business in British India, be subject to all the provisions of this Act from the date it ceased to carry on such business in the United Kingdom in accordance with the said Act.

Penalties and Procedure.

34 Any life assurance company which makes default in complying with any of the requirements of this Act, and every director, manager or secretary, or other officer or agent of the company who is knowingly a party, to the default, shall be punishable with fine which may extend to one thousand rupees, or, in the case of a continuing default, with fine which may extend to five hundred rupees for every day during which the default continues ;

Penalty for non-compliance with Act.

and, if default continues for a period of three months after notice of default by the Governor-General in Council (which notice shall be published in one or more newspapers as the Governor General in Council may, upon, the application of one or more policy-holders or shareholders, direct), the default shall be a ground on which the Court may, order the winding up of the company, in accordance with the Indian Companies Act, 1882.*

35. If any account, balance-sheet, abstract, statement or other document required by this Act is false in any particular to the knowledge of any person who signs it, such person shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Cognizance of offences. **36.** No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act.

Miscellaneous.

37. (1) The Governor-General in Council may appoint one or more inspectors to examine into the affairs of any life assurance company and to report thereon in such manner as he may direct,

(1) in the case of a life assurance company which is not registered under the Indian Companies Act,* 1882, upon the application—

(a) of shareholders being in number not less than one-fifth of the whole number of persons for the time being entered on the list of shareholders kept in accordance with the provisions of section 16, or

(b) of twenty or more policy-holders owning policies of an aggregate value of not less than twenty thousand rupees,

(ii) in any case where a life assurance company has failed to furnish a further statement when required to do so under the provisions of section 11, sub-section (2), or where the Governor-General in Council is of opinion that any such further statement is insufficient or unsatisfactory.

(2) On an appointment being made under sub-section (1) the provisions of section 84 of the Indian Companies Act* 1882, shall apply to the examination made by such inspectors.

38 Any notice or other document which is by this Act required to be sent to any policy-holder may be addressed and sent to the person to

* Act VI. of 1882

whom notices respecting such policy are usually sent and any notices so addressed and sent shall be deemed and taken to be notice to the holder of such policy.

Provided that where any person claiming to be interested in a policy has given to the company notice in writing of his interest any notice which is by this Act required to be sent to policy-holders shall also be sent to such person at the address specified by him in his notice.

39. (1) The Governor-General in Council may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

(a) prescribe the qualifications to be possessed by actuaries, auditors and inspectors under this Act, and the manner in which the accounts of life assurance companies shall be audited ;

(b) prescribe the time within and the form in which notice of alteration of the particulars specified in section 19 of the Act shall be filed with the Registrar ;

(c) subject to the provisions of this Act, prescribe the fees payable thereunder.

(3) All rules made under this Act shall be published in the Gazette of India and on such publication shall have effect as if enacted in this Act.

Power of Governor-General in Council to delegate to Local Governments the powers conferred by this Act

40. The Governor-General in Council may by notification in the Gazette of India, and subject to such conditions and restrictions as he thinks fit, delegate to any Local Government all or any of the powers (other than the power to make rules under section 39) conferred on him by this Act.

41. The Governor-General in Council may, by notification in the Gazette of India, and subject to such restrictions and conditions as he thinks fit, exempt any life assurance company from all or any of the provisions of this Act.

42. [*Amendment of Act VI, 1882, section 131.*—*Repealed by Act XVII. of 1912.*]

THE FIRST SCHEDULE.

(See section 7.)

REVENUE ACCOUNTS OF THE _____ FOR THE YEAR ENDING _____
(A)—Life Assurance Account

	Rs		Rs.
Amount of life assurance fund at the beginning of the year.		Dividends payable on 19 for the year ending 19 (This is only to be stated here by companies not supplying a Profit and Loss account). Claims under policies paid and outstanding— By death	
Premiums		By maturity Surrenders, including surrenders of bonus additions. Annuities Bonuses in cash Bonuses in reduction of premiums Expenses of management — Commission Agents' and Canvassers' allow- ances Salaries, etc (other than to Agents and Canvassers).	
Consideration for annuities granted* (see Note 1)		Travelling expenses Directors' fees Auditors' fees Medical fees	

* NOTE 1.—Companies having a separate annuity fund with investments separate from those of the life assurance fund to return the particulars of their annuity business in a separate statement, in Form B of this Schedule

NOTE 2.—Items in this account to be net amounts after deduction of the amounts paid and received in respect of re-assurances of the company's risks

NOTE 3.—If any sum has been deducted from the expenses of management account and taken credit for in the balance sheet as an asset, the sum so so deducted to be separately shown in the above account.

THE FIRST SCHEDULE—(continued.)

	Rs.	Rs.		Rs.
			Rents for offices belonging to and occupied by the company	
			Rents of other offices occupied by the company.	
Interests, dividends and rents.			Law charges ...	
Less income tax thereon			Advertising	
			Printing and stationery ...	
			Other expenses of management (accounts to be specified)	
Other receipts (accounts to be specified).			Other payments (accounts to be specified).	
			Amount of life assurance fund at the end of the year as per Third Schedule.	
Rs. ...			Rs. ...	

(B) Revenue Account applicable to annuity business of those companies having a separate annuity fund the investments of which are kept separate from those of the life assurance fund.

	Rs.		Rs.
Amount of annuity fund at the beginning of the year		Annuities	
		Surrenders	
Consideration for annuities granted.		Expenses of management .—	
.. .. .	Rs.	Commission	
Interest, dividends and rents.		Other expenses (to be specified)	
Less income-tax thereon.		Other payments (accounts to be specified).	
Other receipts		Amount of annuity fund at the end of the year as per Balance-sheet	
Rs. ...		Rs. ...	

NOTE.—Items in this account to be net amounts after deduction of the amounts paid and received in respect of re-assurances of the company's risks

THE FIRST SCHEDULE—(contd).

(C)—General Revenue Account applicable to all classes of business other than life assurance and annuity transactions.

Rs		Rs	
Amount of funds at the beginning of the year. Premiums (accounts to be specified)		Claims less re-assurances (accounts to be specified).	
		Expenses of management —	
	Rs	Commission	
Interests, dividends and rents.		Other expenses (to be specified).	
Less income tax thereon		Losses (accounts to be specified).	
Profits (account to be specified)		Other payments (accounts to be specified).	
Other receipts (to be specified)		Amount of funds at the end of the year as per Balance-sheet.	
	Rs		Rs

NOTE 1.—All the items in the above account to be exclusive of life assurance and annuity transactions

NOTE 2.—Items in this account to be net amounts after deduction of the amounts paid and received in respect of re-assurances of the company's risks

(D)—Statement to be submitted along with the Revenue Account by all the life assurance companies.

Class of Policy	TOTAL NEW LIFE ASSURANCES COMPLETED IN INDIA DURING THE YEAR 19 .			PORTION THEREOF REASSURED.		
	Sum Assured	Annual Premium.	Single Premium.	Sum Assured	Annual Premium	Single Premium.
	Rs	Rs	Rs.	Rs.	Rs.	Rs.
Whole life						
Whole life by limited payments.						
Endowment assurances.						
Pure endowments						
Term assurances						
Other classes						
TOTAL						

THE FIRST SCHEDULE—(continued.)

	Rs.	Rs.		Rs.
			Rents for offices belonging to and occupied by the company	
			Rents of other offices occupied by the company.	
Interests, dividends and rents.			Law charges	
Less income tax thereon			Advertising	
			Printing and stationery ..	
			Other expenses of management (accounts to be specified).	
Other receipts (accounts to be specified)			Other payments (accounts to be specified).	
			Amount of life assurance fund at the end of the year as per Third Schedule.	
Rs. ...			Rs. ..	

(B) Revenue Account applicable to annuity business of those companies having a separate annuity fund the investments of which are kept separate from those of the life assurance fund

	Rs.		Rs.
Amount of annuity fund at the beginning of the year		Annuities	
		Surrenders .. .	
Consideration for annuities granted.		Expenses of management —	
	Rs	Commission	
Interest, dividends and rents.		Other expenses (to be specified)	
Less income-tax thereon.		Other payments (accounts to be specified)	
Other receipts ...		Amount of annuity fund at the end of the year as per Balance-sheet	
Rs. ...		Rs. ...	

NOTE—Items in this account to be net amounts after deduction of the amounts paid and received in respect of re-assurances of the company's risks.

THE FIRST SCHEDULE—(contd).

(C)—General Revenue Account applicable to all classes of business other than life assurance and annuity transactions.

Amount of funds at the beginning of the year	Rs	Claims less re-assurances (accounts to be specified).	Rs
Premiums (accounts to be specified)		Expenses of management.—	
	Rs	Commission	
Interests, dividends and rents.		Other expenses (to be specified).	
Less income tax thereon ...		Losses (accounts to be specified).	
Profits (account to be specified)		Other payments (accounts to be specified).	
Other receipts (to be specified)		Amount of funds at the end of the year as per Balance-sheet.	
	Rs.		Rs ...

NOTE 1.—All the items in the above account to be exclusive of life assurance and annuity transactions

NOTE 2.—Items in this account to be net amounts after deduction of the amounts paid and received in respect of re-assurances of, the company's risks

(D)—Statement to be submitted along with the Revenue Account by all the life assurance companies.

Class of Policy	TOTAL NEW LIFE ASSURANCES COMPLETED IN INDIA DURING THE YEAR 19 .			PORTION THEREOF REASSURED.		
	Sum Assured	Annual Premium	Single Premium	Sum Assured	Annual Premium	Single Premium.
	Rs	Rs.	Rs.	Rs	Rs	Rs.
Whole life						
Whole life by limited payments.						
Endowment assurances.						
Pure endowments ..						
Term assurances ...						
Other classes						
TOTAL .						

THE FIRST SCHEDULE—(continued.)

	Rs.	Rs.		Rs.
			Rents for offices belonging to and occupied by the company	
			Rents of other offices occupied by the company.	
Interests, dividends and rents.			Law charges ...	
Less income tax thereon			Advertising	
			Printing and stationery ...	
			Other expenses of management (accounts to be specified).	
Other receipts (accounts to be specified).			Other payments (accounts to be specified).	
			Amount of life assurance fund at the end of the year as per Third Schedule.	
Rs. ...			Rs. ...	

(B) Revenue Account applicable to annuity business of those companies having a separate annuity fund the investments of which are kept separate from those of the life assurance fund

	Rs.		Rs.
Amount of annuity fund at the beginning of the year.		Annuities	
		Surrenders	
Consideration for annuities granted.		Expenses of management.—	
	Rs.	Commission	
Interest, dividends and rents.		Other expenses (to be specified)	
Less income-tax thereon.		Other payments (accounts to be specified)	
Other receipts ..	...	Amount of annuity fund at the end of the year as per Balance-sheet.	
Rs. ...		Rs. ..	

NOTE.—Items in this account to be net amounts after deduction of the amounts paid and received in respect of re-assurances of the company's risks.

THE FIRST SCHEDULE—(contd).

(C)—General Revenue Account applicable to all classes of business other than life assurance and annuity transactions.

Rs		Rs	
Amount of funds at the beginning of the year		Claims less re-assurances (accounts to be specified)	
		Expenses of management —	
Permiums (accounts to be specified)		Commission	
	Rs	Other expenses (to be specified)	
Interests, dividends and rents.		Losses (accounts to be specified).	
Less income tax thereon ...		Other payments (accounts to be specified)	
Profits (account to be specified) ..		Amount of funds at the end of the year as per Balance-sheet	
Other receipts (to be specified) ..			
	Rs		Rs ...

NOTE 1.—All the items in the above account to be exclusive of life assurance and annuity transactions

NOTE 2.—Items in this account to be net amounts after deduction of the amounts paid and received in respect of re-assurances of, the company's risks

(D)—Statement to be submitted along with the Revenue Account by all the life assurance companies.

Class of Policy	TOTAL NEW LIFE ASSURANCES COMPLETED IN INDIA DURING THE YEAR 19			PORTION THEREOF REASSURED.		
	Sum Assured.	Annual Premium.	Single Premium	Sum Assured	Annual Premium	Single Premium.
	Rs	Rs	Rs.	Rs.	Rs.	Rs
Whole life						
Whole life by limited payments.						
Endowment assurances.						
Pure endowments						
Term assurances						
Other classes						
TOTAL ...						

THE FIRST SCHEDULE—(*concluded.*)

State also :—

New annuities (state number and annual amount)

Total sums assured and bonuses (less reinsurance) remaining in force
at end of year 19 on lives of residents in IndiaNumber and amount of annuities (less reassurances) remaining in force
at end of year 19 on lives of residents in India.Largest sum for which the company has granted an assurance on any
one life during the year, after deduction of any portion reassured.Statement of the total investments in India of the life assurance and
annuity funds

THE SECOND SCHEDULE.

(*See section 7.*)PROFIT AND LOSS ACCOUNT OF THE _____ FOR THE
YEAR ENDING 19 .

	Rs.		Rs.
Balance of last year's ac- count 		Dividends and bonuses to share- holders payable on 19 , for the year ending 19 .	
	Rs.		
Interest and dividends not carried to other accounts		Expenses not charged to other accounts.	
Less income-tax there- on		Loss realised (accounts to be spe- cified).	
		Other payments (accounts to be specified).	
		Balance as per Third Schedule ...	
Profits realised (accounts to be specified) 			
Other receipts (accounts to be specified) 			
			Rs. ...
Rs. 			

THE THIRD SCHEDULE.

(See Section 7.)

(A) BALANCE SHEET — OF THE — ON THE — 19 .

LIABILITIES	Rs.	Rs.	ASSETS	Rs
Life assurance fund—			Assets of life assurance fund as per separate balance-sheet (if any).	
Outstanding liabilities of life assurance fund			Assets of annuity fund as per separate balance-sheet (if any)	
Annuity fund (if any) as per separate balance sheet			Assets of funds other than those shown in the above mentioned balance-sheets	
Outstanding liabilities of annuity fund			Mortgages on property within India	
			Do do out of India	
			Loans on public rates	
			Do life interests and reversions	
			Do stocks and share .	
			Do company's policies within their surrender values.	
Shareholders's capital paid up (if any).			Do. personal security ...	
			Investment—	
			Deposit with the 'Comptroller of Currency'*(securities to be specified).	
Profit and Loss account (if any).				
Funds contained in General Revenue Account (if any) [Schedule I (c)]			Indian Government securities, British and Colonial Government securities.	
			Foreign Governments securities	
			Indian Municipal and Provincial securities.	
			British and Colonial and Provincial securities	
Other sums owing by the Company.			Foreign and Provincial securities.	
Accounts to be specified and stated separately under each class of business			Bonds, debentures, stocks and other securities wherein interest is guaranteed by the Indian Government	

* The words within quotations have been substituted by Act XIII. 1916.

THE THIRD SCHEDULE—*continued.*

LIABILITIES	Rs	ASSETS	Rs.
		Bonds, debentures, stocks and other securities whereon interest is guaranteed by the British or any Colonial Government.	
		Bonds, debentures, stocks and other securities whereon interest is guaranteed by any foreign Government.	
		Ordinary stocks and shares of any Indian Presidency Bank.	
		Debentures of any Railway in India	
		Debentures of any Railway out of India.	
		Preference or guaranteed shares of any Railway in India.	
		Preference or guaranteed shares of any Railway out of India.	
		Ordinary stocks and shares of any Railway in India	
		Ordinary stocks and shares of any Railway out of India	
		House of property in India.	
		House of property out of India.	
		Freehold and leasehold ground rents and rent charges in India,	
		Life interests and reversions in India.	
		Life interests and reversions out of India.	
		Other investments in India (to be specified)	
		Other investments out of India (to be specified).	
		Agents balances. 	

THE THIRD SCHEDULE—*continued.*

LIABILITIES	Rs.	ASSETS.	Rs.
		Outstanding premiums *	
		Do. interests dividends and rents.*	
		Interest accrued but not payable	
		Bills receivable. ...	...
		Cash —	
		On deposit ...	...
		In hand and on current account.	
		Other assets (to be specified.) ...	
Rs.		Rs. ...	

* These items are or have been included in the corresponding items in the First Schedule

NOTE 1.—When part of the assets of the company are specifically deposited under local laws, in various places out of India, as security to holders of life assurance policies there issued, each such place and the amount compulsorily lodged therein must be specified.

NOTE 2.—The balance-sheet must state how the values of the Stock Exchange securities are arrived at, and on the occasions when a statement respecting valuation under the Fourth Schedule is made a certificate must be appended, signed by the same persons as signed the balance sheet to the effect that in their belief the assets set forth in the balance-sheet are in the aggregate fully of the value stated therein, less any investment reserve fund taken into account.

NOTE 3.—Companies having investments with any uncalled liability shall state separately the full amount thereof.

NOTE 4.—Particulars must be given of all loans, including temporary advances, except loans on policies within their surrender values, made at any time during the year to any director or officer of a company or to any other company in which any of the said directors or officers may hold the position either of director or of officer,

THE THIRD SCHEDULE—(contd.)

(B) BALANCE-SHEET OF THE LIFE ASSURANCE FUND _____
ON THE _____ 19 , TO BE COMPLETED BY COM-
PANIES DOING BUSINESS OTHER THAN LIFE ASSURANCE
FOR WHICH THEY HAVE SEPARATE FUNDS

LIABILITIES.	Rs	ASSETS.	Rs.
Life assurance fund		Mortgages on property within India	
Claims admitted or intimated* but not paid.		Mortgages on property out of India.	
Other sums owing by the company*(under this class of business.)		Loans on public rates ...	
		Do life interests and rever- sions	
		Do stocks and shares	
		Do. company's policies within their surrender values ..	
		Do personal security	
		Investments—	
		Deposit with the "Comptroller of Currency"† (securities to be specified)	
		Indian Government securities.	
		British and Colonial Govern- ment securities.	
		Foreign Government securities	
		Indian Municipal and Provin- cial securities	
		British and Colonial and Pro- vincial securities	
		Foreign and Provincial secu- rities	
		Bonds, debentures, stocks and other securities whereon in- terest is guaranteed by the Indian Government.	
		Bonds, debentures, stocks and other securities whereon in- terest is guaranteed by the British or any Colonial Government.	
		Bonds, debentures, stocks and other securities whereon in- terest is guaranteed by any Foreign Government	
		Ordinary stocks and shares of any Indian Presidency Bank.	
		(Debentures of any Railway in India.)	

* These items are or have been included in the corresponding items in the First Schedule.

† The words within quotations have been added by Act XIII of 1914.

THE THIRD SCHEDULE—(concluded).

LIABILITIES.	Rs	ASSETS	Rs.
		Debentures of any Railway out of India.	
		Preference or guaranteed shares of any Railway in India	
		Preference or guaranteed shares of any Railway out of India	
		Ordinary stocks and shares of any Railway in India	
		Ordinary stocks and shares of any Railway out of India	
		House property in India.	
		Do. Do out of India.	
		Freehold and leasehold ground rents and rent-charges in India	
		Life interests and reversions in India	
		Life interests and reversions out of India	
		Other investments in India (to be specified)	
		Other investments out of India (to be specified)	
		Agents' balances	
		Outstanding premiums*	
		Do. interests dividends and rents *	
		Interest accrued but not payable*	
		Bills receivable	
		Cash—	
		On deposit	
		In hand and on current account.	
		Other assets (to be specified)	
Rs. ...		Rs ...	

* These items are or have been included in the corresponding items in the First Schedule

NOTE 1.—When part of the assets of the company are specifically deposited under local laws, in various places out of India as security to holders of life assurance policies there issued each such place and the amount compulsorily lodged therein must be specified

NOTE 2.—A balance-sheet in the above form must be rendered in respect of the annuity fund if the investments of that fund are distinct from those of the life assurance fund

NOTE 3.—The balance-sheet must state how the value of the Stock Exchange securities are arrived at and on the occasions when a statement respecting valuation under the Fourth Schedule is made a certificate must be appended, signed by the same persons as signed the balance-sheet to the effect that in their belief the assets set forth in the balance sheet are in the aggregate fully of the value stated therein less any investment reserve fund taken into account.

THE FOURTH SCHEDULE

(See sections 8 and 9)

STATEMENT RESPECTING THE VALUATION OF THE LIABILITIES
UNDER LIFE POLICIES AND ANNUITIES OF THE———, TO
BE MADE AND SIGNED BY THE ACTUARY.

(The answers should be numbered to accord with the number of the corresponding questions)

1. The date up to which the valuation is made.
2. The general principles adopted in the valuation, and the method followed in the valuation of particular classes of assurance including a statement of the method by which the net premium have been arrived at, and whether these principles were determined by the instrument constituting the company or by its regulations or bye laws, or how otherwise, together with a statement of the manner in which policies on under average lives are dealt with.
3. The table or tables of mortality used in the valuation. In cases where the tables employed are not published, specimen policy values are to be given, at the rate of interest employed in the valuation, in respect of whole life assurance policies effected at the respective ages of 20, 30, 40 and 50, and having been respectively in force for 5 years, 10 years, and upwards at intervals of five years, respectively, with similar specimen policy values in respect of endowment assurance policies, according to age at entry and original term of policy and duration.
4. The rate or rates of interest assumed in the calculations.
5. The actual proportion of the annual premium income (if any), reserved as a provision for future expenses and profits, separately specified in respect of assurances with immediate profits, with deferred profits, and without profits. (If none, state how the provision is made.)
6. The consolidated revenue-account since the last valuation, or, in case of a company which has made no valuation, since commencement of the business (This return should be made

NOTE 4 —A certificate must be appended hereto, signed by the same person as signed the balance-sheet (Form A) and by the auditor, to the effect that no part of any such fund has been applied directly or indirectly, for any purpose other than the class of business to which it is applicable

NOTE 5 —Companies having investments with any uncalled liability state separately the full amount thereof.

NOTE 6 —Particulars must be given of all loans, including temporary advances, except loans on policies within their surrender value, made at any time during the year to any director or officer of the company or to any other company in which any of said directors or officers may hold the position either of director or of officer

THE FOURTH SCHEDULE—(*continued.*)

the form annexed. No return under this heading will be required where a statement under this schedule is deposited annually.)

7. The liabilities of the company under life policies and annuity at the date of the valuation, showing the number of policies, the amount assured and the amount of premiums payable annually under each class of policies, both with and without participation in profits, and also the net liabilities and assets of the company with the amount of surplus or deficiency. (These returns to be made in the forms annexed)

8. The principles upon which the distribution of profits among the shareholders and policy-holders is made, and whether these principles were determined by the instrument constituting the company or by its regulations or bye-laws, or how otherwise, and the number of years' premiums to be paid before a bonus (*a*) is allotted, and (*b*) vests.

9. The results of the valuation, showing—

(1) the total amount of profit made by the company, allocated as follows : —

(*a*) among the policy-holders with immediate participation, and the number and amount of the policies which participated,

(*b*) among policy holders with deferred, participation, and the number and amount of the policies which participated;

(*c*) among the shareholders,

(*d*) to reserve funds, or other accounts;

(*e*) carried forward unappropriated,

(2) specimens of bonuses allotted to whole life assurance policies for Rs. 1,000 effected at the respective ages of 20, 30, 40 and 50, and having been respectively in force for 5 years, 10 years, and upwards at intervals of 5 years respectively, together with the amounts apportioned under the various modes in which the bonus might be received; with similar specimen bonuses and particulars in respect of endowment assurance policies, according to age at entry, original term of policy, and duration.

THE FOURTH SCHEDULE—(*concluded*)

(FORM REFERRED TO UNDER HEADING No 7 IN FOURTH SCHEDULE.)

Valuation Balance-Sheet of _____ as at _____ 19 .

Dr.		Cr	
	Rs		Rs
To net liability under life assurance and annuity transactions (as per summary statement provided in Fourth Schedule)		By life assurance and annuity funds (as per Balance-sheet under Third Schedule)	
To surplus, if any	...	By deficiency, if any	.. ...
	—		—

THE FIFTH SCHEDULE.

(*See section 10*)

STATEMENT OF THE LIFE ASSURANCE AND ANNUITY BUSINESS OF THE _____ ON THE _____ 19 , TO BE SIGNED BY THE ACTUARY

(The answers should be numbered to accord with the numbers of the corresponding questions. Statements of re-assurances corresponding to the statements in respect of assurances are to be given throughout.) Separate statements are to be furnished in the replies to all the headings under this Schedule for business at other than European rates

1 The published table or tables of premiums for assurances for the whole term of life and for endowment assurances which are in use at the date above-mentioned

NOTE 1.—The term "extra premium" in this Act shall be taken to mean the charge for any risk not provided for in the minimum contract premium. If policies are issued in or for any country at rates of premium deduced from tables other than the European mortality tables adopted by the company, separate schedules similar in form to the above must be furnished.

NOTE 2.—Separate returns and valuation results must be furnished in respect of classes of policies valued by different tables of mortality, or at different rates of interest, also for business at other than European rates

NOTE 3.—In cases also where separate valuations of any portion of the business are required under local laws in places outside British India, a summary statement must be furnished in respect of the business so valued in each such place showing the total number of policies, the total sums assured and bonuses, the total office yearly premiums and the total net liability on the bases as to mortality and interest adopted in each such place, with a statement as to such bases respectively.

THE FIFTH SCHEDULE—(concluded).

2. The total amount assured on lives for the whole term of life which are in existence at the date abovementioned distinguishing the portions assured with immediate profits, with deferred profits, and without profits, stating separately the total reversionary bonuses and specifying the sums assured for each year of life from the youngest to the oldest ages, the basis of division as to immediate and deferred profits being stated.

3. The amount of premiums receivable annually for each year of life, after deducting the abatements made by the application of bonuses in respect of the respective assurances mentioned under Heading No 2, distinguishing ordinary from extra premiums. A separate statement is to be given of premiums payable for a limited number of years, classified according to the number of years' payments remaining to be made.

4. The total amount assured under endowment assurances, specifying sums assured and office premiums separately in respect of each year in which such assurances will mature for payment. The reversionary bonuses must also be separately specified and the sums assured with immediate profits, with deferred profits, and without profits separately returned.

5. The total amount assured under classes of assurance business, other than assurances dealt with under questions 2 and 4, distinguishing the sums assured under each class and stating separately the amount assured with immediate profits with deferred profits, and without profits, and the total amount of reversionary bonuses.

6. The amount of premiums receivable annually in respect of each such special class of assurances mentioned under Heading No. 5, distinguishing ordinary from extra premiums.

7. The total amount of premiums which has been received from the commencement upon pure endowment policies which are in force at the date abovementioned.

8. The total amount of immediate annuities on lives, distinguishing the amounts for each year of life, and distinguishing male and female lives.

9. The amount of all annuities on lives other than those specified under Heading No 8 distinguishing the amount of annuities payable under each class, and the amount of premiums annually receivable.

10. The average rate of interest yielded by the assets, whether invested or uninvested constituting the life assurance fund of the company, calculated upon the mean fund of each year during the period since the last investigation, without deduction of income-tax.

It must be stated whether or not the mean fund upon which the average rate of interest is calculated includes reversionary investments.

11. A table of minimum values, if any, allowed for the surrender of policies for the whole term of life and for endowments and endowment assurances, or a statement of the method pursued in calculating such surrender values, with instances of the application of such method to policies of different standing and taken out at various interval ages from the youngest to the oldest.

THE SIXTH SCHEDULE.

(See sections 24 and 25.)

RULES FOR VALUING ANNUITIES, LIFE POLICIES AND LIABILITIES

Rule for valuing an annuity

An annuity shall be valued according to the tables used by the company which granted such annuity at the time of granting the same, and, where such tables cannot be ascertained or adopted to the satisfaction of the Court, then according to such rate of interest and tables of mortality as the Court may direct

Rule for valuing a policy.

The value of the policy is to be the difference between the present value of the reversion in the sum assured according to the contingency upon which it is payable, including any bonus or addition thereto made before the commencement of the winding up, and the present value of the future annual premiums.

In calculating such present values interest is to be assumed at such rate, and the rate of mortality according to such tables, as the Court may direct

The premium to be calculated is to be such premium as according to said rate of interest and rate of mortality is sufficient to provide for the risk incurred by the office in issuing the policy, exclusive of any addition thereto for office expenses and other charges

Rule for valuing a liability

The liquidator, in the case of all persons appearing by the books of the company to be entitled to or interested in policies granted by such company, is to ascertain the value of the liability of the company to each such person, and give notice of such value to such persons in such manner as the Court may direct, and any person to whom notice is so given shall be bound by the value so ascertained unless he gives notice of his intention to dispute such value in manner and within a time to be prescribed by a rule or order of the Court

ACT NO. VII. OF 1912.

Bengal, Bihar, Orissa and Assam Laws Act, 1912.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 26th March
1912.*

An Act to make certain provisions regarding the application of the law in force in the Presidency of Fort William in Bengal, the Province of Bihar and Orissa and the Province of Assam.

Whereas a Governor and an Executive Council have been appointed for the Presidency of Fort William in Bengal :

And whereas, by Proclamation published under Notification No. 290, dated the twenty-second day of March 1912, the Governor-General in Council, with the sanction of His Majesty, has been pleased to declare and appoint that, on and from the first day of April 1912, the territory mentioned in Schedule A shall be and continue subject to the said Presidency of Fort William in Bengal :

And whereas, by Proclamation published under Notification No. 289, dated the twenty-second day of March, 1912, the Governor General, with the sanction of His Majesty, has been pleased to constitute the territory mentioned in Schedule B to be, for the purposes of the Indian Councils Act,* 1861, a Province to which the provisions of that Act touching the making of laws and Regulations for the peace and good government of the Presidencies of Fort St. George and Bombay shall be applicable, and to direct that the said Province shall be called the Province of Bihar and Orissa, and further to appoint a Lieutenant-Governor of that Province ,

And whereas, by Proclamation published under Notification No 291, dated the twenty second day of March 1912, the Governor-General in Council, with the sanction and approbation of the Secretary of State for India has been pleased to take under his immediate authority and management the territory mentioned in Schedule C, which was formerly included within the Province of Eastern Bengal and Assam, and to form the same into a Chief Commissioner-ship, to be called the Chief Commissionership of Assam, and further to appoint a Chief Commissioner therefor ;

* 24 & 25 Vict, c 67.

And whereas it is expedient to make certain provisions regarding the application of the law in force in the territories affected by the said Proclamations :

It is hereby enacted as follows :—

Short title and com-
mencement. 1. (1) This Act may be called the Bengal, Bihar and Orissa and Assam Laws Act, 1912; and

(2) It shall come into force on the first day of April 1912.

2 The Proclamations referred to in the preamble shall not be deemed to have effected any change in the territorial application of any enactment, notwithstanding that such enactment may be expressed to apply or extend to the territories for the time being under a particular administration.

3. All enactments made by any authority in British India and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under such enactments, which immediately before the commencement of this Act, were in force in, or prescribed for, any of the territory mentioned in Schedule A, Schedule B or Schedule C, shall, in their application to that territory, be construed as if references therein to the authorities, territory or Gazettes mentioned in column 1 of Schedule D were references to the authorities, territory or Gazettes respectively mentioned or referred to opposite thereto in column 2 of that Schedule.*

4† There shall be a Board of Revenue for the Province of Bihar and Orissa, to which the provision of the Bengal Board of Revenue Regulation,† 1822, and the Bengal Board of Revenue Act,§ 1850, shall, so far as may be applicable, apply.

5, For the purpose of facilitating the application to the territory, or any part thereof, mentioned in Schedule A, Schedule B or Schedule C of any enactment passed before the commencement of this Act, or of any notification, order, scheme, rule, from or by-law made under any such enactment,—

(a) any Court may, subject to the other provisions of this Act, construe the enactment, notification, order, scheme, rule, form or by-law with such alterations as

* Certain words after this repealed by Act 38 of 1920 have been omitted

† This section have been repealed in Bihar and Orissa by B & O Act 1913.

‡ Reg III of 1822

§ Act XLIV. of 1850.

affecting the substance, as may be necessary or proper to adapt it to the matter before the Court, and,

- (b) the Local Government may, by notification in the local official Gazette, direct by what officer any authority or power shall be exerciseable, and any such notification shall have effect as if enacted in this Act.

6. Nothing in this Act shall affect any proceeding which, at the commencement thereof, is pending Pending proceedings. in or in respect of any of the territory mentioned in Schedule A, Schedule B or Schedule C, and every such proceeding shall be continued as if this Act had not been passed.

7. The enactments specified in Schedule E are hereby amended to the extent and in the manner specified in the fourth column thereof Amendments of Acts.

8. The Bengal and Assam Laws Act,* 1905, is hereby repealed. Repeal.

SCHEDULE A.

(See sections 3, 5 and 6)

THE PRESIDENCY OF FORT WILLIAM IN BENGAL.

Part I

The Chittagong Division, comprising the districts of Chittagong, the Chittagong Hill-tracts, Noakhali and Tippera ;

the Dacca Division, comprising the districts of Bakarganj, Dacca, Faridpur and Mymensingh ;

the Rajshahi Division, comprising the districts of Bogra, Dinapur, Jalpaiguri, Malda, Pabna, Rajshahi and Rangpur

Part II

The Burdwan Division, comprising the districts of Bankura, Birbhum, Burdwan, Hooghly, Howrah and Midnapur ,

the Presidency Division, comprising the town of Calcutta and the districts of Jessore, Khulna, Mursidabad, Nadia and the 24-Parganas , and

the district of Darjeeling.

SCHEDULE B

THE PROVINCE OF BIHAR AND ORISSA.

The districts of Bhagalpur, Monghyr, Purnea and the Santhal Parganas, in the Bhagalpur Division ,

the Patna Division, comprising the districts of Gaya, Patna and Shahabad , the Tirhut Division, comprising the districts of Champaran, Darbhanga, Muzaffarpur and Saran ,

the Chota Nagpur Division, comprising the districts of Hazaribagh, Manbhum, Palamau, Ranchi and Singhbhum, and

the Orissa Division, comprising the districts of Angul, Balasore, Cuttack, Puri and Sambalpur.

SCHEDULE C.

THE PROVINCE OF ASSAM

The Assam Valley Districts Division comprising the districts of Darrang, Garo Hills, Goalpara, Kamrup, Lakhimpur, Nowgong and Sibsagar ; and

the Surma Valley and Hill Districts Division, comprising the districts of Cachar, Khasi and Jaintia Hills, Lushai Hills, Naga Hills and Sylhet

SCHEDULE D.*

(See section 3)

Part I.—Construction of enactments, etc, in force in the territory mentioned in Schedule A (the Presidency of Fort William in Bengal)

1	2
References.	Constructions
1. The Local Government of Bengal...	The Governor in Council of Fort William in Bengal.
2. The Local Government of Eastern Bengal and Assam	
3. The Board of Revenue for Eastern Bengal and Assam.	The Board of Revenue for Bengal
4. The Chief Controlling Revenue-Authority.	
5. The Chief Revenue-Authority . .	
6. All officers and official bodies not mentioned in the foregoing clauses 2 to 5 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Part I of Schedule A.	<p>(a) The respective officers and official bodies who immediately before the commencement of this Act exercised similar functions in the Province of Bengal, or</p> <p>(b) Such other officers or official bodies, respectively, as the Governor in Council of Fort William in Bengal may, by notification in the local official Gazette, direct.</p>
7. The local official Gazette (English or Vernacular, as the case may be) of the Government of Eastern Bengal and Assam.	The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal.

* [Cf Act VII. of 1905, Sch. D.]

SCHEDULE D—*Contd.*

Part II.—Constructoin of enactments, etc, in force in the territory mentioned in Schedule B (the Province of Bihar and Orissa)

1	2
References	Constructions
8. The Local Government of Bengal 9. The Local Government of the Central Provinces.	} The Local Government of Bihar and Orissa
10. The Board of Revenue for Bengal ... 11. The Chief Controlling Revenue Authority 12 The Chief Revenue Authority ... 13. The Court of Wards of the Central Provinces 14. The Superintendent of Government Wards in the Central Provinces.	} The Board of Revenue for Bihar and Orissa,
15. The Judicial Commissioner of the Central Provinces.	The High Court of Judicature at Fort William in Bengal.
16. All officers and official bodies not mentioned in the foregoing clauses 8 to 15 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Bengal generally, inclusive of the territory mentioned in Schedule B.	Such officers or official bodies, respectively, as the Local Government may, by notification in the local official Gazette, direct.
17. The local official Gazette (English or vernacular, as the case may be) of the Government of Bengal or the Chief Commissionership of the Central Provinces.	The local official Gazette (English or Vernacular as the case may be) of the Government of Bihar add Orissa.

SCHEDULE D—*concl'd.*

Part III.—Construction of enactments, etc., in force in the territory mentioned in Schedule C (the Province of Assam).

1	2
References.	Constructions
18. The Local Government of Bengal ... 19. The Local Government of Eastern Bengal and Assam. 20. The Board of Revenue for Bengal .. 21. The Board of Revenue for Eastern Bengal and Assam. 22. The Chief Controlling Revenue Authority 23. The Chief Revenue-Authority .	} The Chief Commissioner of Assam.
24. All officers and official bodies not mentioned in the foregoing clauses 18 to 23 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Schedule C.	Such officers or official bodies, respectively, as the Chief Commissioner of Assam may by notification in the local official Gazette direct.
25. The Chief Commissionership of Assam.	The territory mentioned in Schedule C.
26. The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Government of Eastern Bengal and Assam.	The local official Gazette (English or Vernacular, as the case may be) of the Chief Commissionership of Assam.

SCHEDULE E.

(See section 7.)

1	2	3	4
Year.	No.	Short title.	Amendments.
1877	III.	The Specific Relief Act, 1877.	In section 45 (<i>f</i>) for the words "the Lieutenant Governor of Bengal" substitute the words "the Governor in Council of Fort William in Bengal."
1882	XV.	The Presidency Small Cause Courts Act, 1882.	In section 93, for the words "and Bombay" substitute the words "Bombay and Fort William in Bengal" and omit the words "the Lieutenant-Governor of Bengal."
1903	X.	The Victoria Memorial Act, 1903.	In section 2 (1) (<i>b</i>) for the words "the Lieutepant-Governor of Bengal" substitute the words "the Governor of Fort William in Bengal."
1910	X	The Indian Museum Act, 1910.	In section 2 (1) (<i>c</i>)- for the words "the Lieutenant-Governor of Bengal" substitute the words "the Governor of Fort William in Bengal." *

ACT NO. VIII. OF 1912.

The Wild Birds and Animals Protection Act, 1912.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the G-G' assent on the 18th September 1912.

An Act to make better provision for the protection and preservation of certain wild birds and animals.

Whereas it is expedient to make better provision for the protection and preservation of certain wild birds and animals ; It is hereby enacted as follows :—

1. (1) This Act may be called the Wild Birds and Animals Protection Act, 1912 ; and
Short title and extent.

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the Pargana of Spiti.

2. (1) This Act applies, in the first instance, to the birds and animals specified in the Schedule, when in their wild state.
Application of Act.

(2) The Local Government may, by notification in the local official Gazette, apply the provisions of this Act to any kind of wild bird or animal, other than those specified in the Schedule, which, in its opinion, it is desirable to protect or preserve.

3. The Local Government may, by notification in the local official Gazette, declare the whole year or any part thereof to be a close time throughout the whole or any part of its territories for any kind of wild bird or animal to which this Act applies or for female or immature wild birds or animals of such kind ; and, subject to the provisions hereinafter contained, during such close time, and within the areas specified in such notification, it shall be unlawful—
Close time.

(a) to capture any such bird or animal, or to kill any such bird or animal which has not been captured before the commencement of such close time ;

(b) to sell or buy, or offer to sell or buy, or to possess, any such bird or animal which has been captured or killed before the commencement of such close time, or the flesh thereof ;

(c) if any plumage has been taken from any such bird captured or killed during such close time, to sell or buy, or to offer to sell or buy, or to possess, such plumage.

4. (1) Whoever does, or attempts to do, any act in contravention of section 3, shall be punishable with fine which may extend to fifty rupees.

Penalties

(2) Whoever, having already been convicted of an offence under this section, is again convicted thereunder shall, on every subsequent conviction, be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

5 (1) When any person is convicted of an offence punishable under this Act, the convicting Magistrate may direct that any bird or animal in respect of which such offence has been committed, or the flesh or any other part of such bird or animal shall be confiscated.

Confiscation

(2) Such confiscation may be in addition to the other punishment provided by section 4 for such offence.

6. No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try any offence against this Act.

Cognizance of offences.

7. Where the Local Government is of opinion that, in the interests of scientific research, such a course is desirable, it may grant to any person a license, subject to such restrictions and conditions as it may impose entitling the holder thereof to do any act which is by section 3 declared to be unlawful.

Power to grant exemption.

8. Nothing in this Act shall be deemed to apply to the capture or killing of a wild animal by any person in defence of himself or any other person, or to the capture or killing of any wild bird or animal in bona fide defence of property.

Savings.

9. [Repeal].—Repealed by Act X. VII. of 1914.

THE SCHEDULE.

- (i) Bustards, ducks, floricans, jungle fowl, partridges, peafowl, pheasants, pigeons, quail, sand grouse, painted snipe spur-fowl, wood-cock, herons, egrets, rollers, and king fishers.
- (ii) Antelopes, asses, bison, buffaloes deer, gazelles, goats, hares, oxen, rhinoceroses and sheep.

ACT NO. IX OF 1912.

The Presidency Small Cause Courts (Amendment) Act,* 1912.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the G.—G.'s assent on the 18th September 1912.

*An Act further to amend the Presidency Small
Cause Courts Act, 1882.*

WHEREAS it is expedient further to amend the Presidency Small Cause Courts Act* 1882 ; It is hereby enacted as follows :

Short title. 1. This Act may be called the Presidency Small Cause Courts (Amendment) Act, 1912.

Amendment of section
41, Act XV, 1882 2. In section 41 of the Presidency Small Cause Courts Act,* 1882, for the word "one" the word "two" shall be substituted.

* Act XV. of 1882.

ACT NO. X, OF 1912.

The Indian Divorce (Amendment) Act, * 1912.

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.

Received the G-G.'s assent on the 18th September 1912.

An Act further to amend the Indian Divorce Act.

WHEREAS it is expedient further to amend the Indian Divorce Act * ; It is hereby enacted as follows :

Short title. 1. This Act may called the Indian Divorce (Amendment) Act 1912.

Addition to section 7, 2. To section 7 of the Indian Divorce Act * the following proviso shall be added, Act IV. of 1869 namely :—

“Provided that nothing in this section shall deprive the said Courts of jurisdiction in a case where the parties to a marriage professed the Christian religion at the time of the occurrence of the facts on which the claim to relief is founded.”

* Act IV, of 1869.

ACT NO. XIII. OF 1912.

The Delhi Laws Act, 1912.

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL

Received the G.-G's assent on the 18th September, 1912

*An Act to provide for the application of the law in force in
the province of Delhi and for the extension
of other enactments thereto*

WHEREAS by Proclamation published in Notification No. 911, dated the seventeenth day of September, 1912, the Governor-General in Council, with the sanction and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule A, which was formerly included within the Province of the Punjab, and to provide for the administration thereof by a Chief Commissioner as a separate Province to be known as the Province of Delhi,

And whereas it is expedient to provide for the application of of the law in force in the said territory, and for the extension of other enactments thereto ; It is hereby enacted as follows —

Short title and com-
mencement

1. (1) This Act may be called the Delhi Laws Act, 1912, and

(2) It shall come into force on the first day of October, 1912.

Saving of territorial
application of enact-
ments

2. The proclamation referred to in the preamble shall not be deemed to have effected any change in the territorial application of any enactment notwithstanding that such enactment may be expressed to apply or extend to the territories for the time being under any particular administration.

3. All enactments made by any authority in British India and all notifications, orders, schemes, rules, froms and by laws issued, made or prescribed under such enactments which immediately before the commencement of this Act were in force in, or prescribed for any of the territory mentioned in Schedule A, shall in their application to that territory be construed as if references therein to the authorities, or gazette mentioned in column 1 of Schedule B were references to the authorities, or gazette respectively mentioned or referred to opposite thereto in column 2 of that Schedule :

Provided that the Governor-General in Council may, by notification in the Gazette of India, direct that any power or duty conferred or imposed on the Local Government under any such enact-

ment shall be exercised or performed by the Governor General in Council or by such other authority as he may specify in this behalf and not by the Chief Commissioner of Delhi.

4. For the purpose of facilitating the application to the territory mentioned in Schedule A or any part thereof of any enactment passed before the commencement of this Act or of any notification, order, scheme, rule, form or by-law issued, made or prescribed under any such enactment—

- (1) any Court may subject to the other provisions of this Act construe the enactment, notification, order, scheme, rule, form or by-law with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court, and
- (2) the Local Government may subject to the other provisions of this Act by notification in the Gazette of India, direct by what Officer any power or duty shall be exercised or discharged, and any such notification shall have effect as if enacted in this Act.

5. (1) A notification issued under section 4, sub-section (2), may direct that any powers or duties vested in separate Officers may be consolidated and vested in, and discharged by a single Officer

2) Where by such a notification appellate powers are consolidated and vested in a single Officer, the period of limitation for the consolidated appeal shall be the longest period provided in the case of an appeal to any of the Officers whose powers are so consolidated.

6 Nothing in this Act shall affect any proceeding which at the commencement thereof is pending in respect of any of the territory mentioned in Schedule A, and every such proceeding shall be continued as if this Act had not been passed

Provided that all proceedings which at the commencement of this Act are pending before the Commissioner of the Division or any other authority within the territory mentioned in Schedule A shall be transferred to, and disposed of by, such authorities in the Province of Delhi as the Local Government may, by notification in the Gazette of India, direct.

7, The Governor-General in Council may, by notification in the Gazette of India, extend with such restrictions and modifications as he thinks fit to 'the Province of Delhi,' * or any part thereof any enactment which is in force in any part of British India at the date of such notification.

* The words within quotations have been inserted by Act VII, of 1915.

SCHEDULE A.

(See section 3.)

THE PROVINCE OF DELHI.

That portion of the District of Delhi comprising the Tahsil of Delhi and the police station of Mahrauli.

SCHEDULE B

(See section 3.)

1	2
Reference	Construction-
1. The Local Government ...	The Chief Commissioner of Delhi.
2. The Lieutenant Governor of the Punjab.	
3. The Chief Controlling Revenue Authority	
4. The Chief Revenue Authority ...	
5. The Chief Customs Authority ..	
6. The Financial Commissioner .	
7. The Commissioner of Revenue ...	
8. The Commissioner of the Division	
9. The Commissioner.	
10. The Chief Secretary to Government	
11. A Secretary to Government or to the Local Government	Such officials or official bodies respectively as the Local Government may, by notification in the Gazette of India direct.
12. All officers and official bodies not mentioned in the foregoing clauses except the Treasurer of Charitable Endowments whose authority extended immediately before the commencement of this Act over the territory mentioned in Schedule A.	
13. The Local Official Gazette of the Punjab The Gazette of India .	

ACT NO I. OF 1913.

The Indian Extradition (Amendment) Act, 1913.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 27th
February 1913.*

An Act to amend the Indian Extradition Act,

Whereas it is expedient to amend the Indian Extradition Act 1903 ;* It is hereby enacted as follows .—

Short title.

1. This Act may be called the Indian Extradition (Amendment) Act, 1913.

2. (1) In sub-section (1) of section 7 of the Indian Extradition Act, 1903,* after the words "such person is believed to be", the words "or if such person is believed to be in any Presidency-town to the Chief Presidency Magistrate of such town" shall be inserted.

(2) In sub-section (2) of the same section after the words "accused person when arrested shall" the words "be produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, who shall record any statement made by him ; such accused person shall then" shall be inserted.

(3) In sub-section (3) of the same section after the words "District Magistrate", the words "or Chief Presidency Magistrate" shall be inserted.

Addition of new section after section 8, Act XV.. 1903,

3. After section 8 of the said Act the following section shall be inserted, namely .—

"8A. Notwithstanding anything contained in section 7, sub-section (2) or in section 8, when an accused person arrested in accordance with the provisions of section 7 is produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, and the statement (if any) of such accused person has been recorded, such Magistrate may, if he thinks fit, before proceeding further, report the case to the Local Government and, pending the receipt of orders on such report, may detain such accused person in custody or release him on his executing a bond with sufficient sureties for his attendance when required."

* Act XV. of 1903.

ACT NO. II. OF 1913.

The Official Trustees Act 1913.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

Received the G.-G's assent on the 27th February 1913

An Act to consolidate and amend the Law constituting the office of official Trustee.

Whereas it is expedient to consolidate and amend the law constituting the office of the Official Trustee ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title, extent and commencement, (1) This Act may be called the Official Trustees Act, 1913.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also to all British and Indian subjects of His Majesty in the territories of Native States in India.

(3) It shall come into force on such date as the Governor-General in Council, by notification in the *Gazette of India*, may direct.

Interpretation clause 2. In this Act unless there is anything repugnant in the subject or context.

(1) "Government" means the Governor-General in Council, so far as the Act relates to the Presidency of Bengal, and the Local Governments of Madras and Bombay, respectively, so far as the Act relates to those Presidencies.

(2) "High Court" means His Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay, respectively, in the exercise of their original civil jurisdiction.

(3) "Official Gazette" means in the case of the Presidency of Bengal, the *Gazette of India*, in the case of the Presidency of Madras, the Fort St George Gazette, and in the case of the Presidency of Bombay, the *Bombay Government Gazette*

(4) "Prescribed" means prescribed by rules under this Act :

(5) (a) "Presidency of Bengal" includes the territories for the time being under the government of the Governor of Fort William in Bengal in Council, the United

Provinces of Agra and Oudh, the Provinces of the Punjab, Burma, Bihar and Orissa, the Central Provinces, Assam, the North-West Frontier Province, the Province of Delhi, Ajmeer and Merwara, the Andaman and Nicobar Islands, and such of the territories of any Native State as the Governor-General in Council may by notification in the *Gazette of India* direct.

(b) "Presidency of Bombay" includes the territories for the time being under the Government of the Governor of Bombay in Council, the Province of British Baluchistan, and such of the territories of any Native State as the Governor-General in Council may by notification in the *Gazette of India* direct,

(c) "Presidency of Madras" includes the territories for the time being under the Government of the Governor of Fort St. George in Council, the Province of Coorg, and such of the territories of any Native State as the Governor-General in Council may by notification in the *Gazette of India* direct.

(6) "Presidency" means any of the Presidencies mentioned in clause (5)

(7) 'revenues of the Government' means, in respect of any part of India in which the powers and duties of the Government under this Act are exercised and discharged by a Local Government, the revenues, allocated to that Government under the Government of India Act.*

Extent of jurisdiction
of High Courts.

3. For the purposes of this Act the High Court at a Presidency-town shall have jurisdiction throughout the Presidency.

PART II.

THE OFFICE OF OFFICIAL TRUSTEE

4. (1) In each of the Presidencies of Bengal, Madras and Bombay, the Government shall appoint an Official Trustee.

(2) No person shall be appointed to the office of Official Trustee of any of the said Presidencies who is not—

(a) a Barrister ; or

(b) an Advocate, Attorney or Vakıl enrolled by a High Court ; or

(c) a person holding the office of Deputy Administrator-General at the commencement of this Act.

* The words within quotations have been inserted by Act 21 of 1922

(3) The said Official Trustees shall be called respectively, the Official Trustee of Bengal, the Official Trustee of Madras and the Official Trustee of Bombay.

5. The Government may appoint a Deputy or Deputies, to assist the Official Trustee; and any Deputy so appointed shall, subject to the control of the Government and the general or special orders of the Official Trustee, be competent to discharge any of the duties and exercise any of the powers of the Official Trustee, and when discharging such duties or exercising such powers shall have the same privileges and be subject to the same liabilities as the Official Trustee.

Appointment and powers of Deputy Official Trustee

6 The Official Trustee shall be a corporation sole by the name of the Official Trustee of the Presidency for which he is appointed and, as such Official Trustee, shall have perpetual succession and an official seal, and may sue and be sued in his corporate name.

PART III.

RIGHTS, POWERS, DUTIES AND LIABILITIES OF OFFICIAL TRUSTEE

General Powers and duties of official Trustee

7 (1) Subject to, and in accordance with, the provisions of this Act and the rules made thereunder, the Official Trustee may, if he thinks fit,—

(a) act as an ordinary trustee ;

(b) be appointed trustee by a Court of competent jurisdiction.

(2) Save as hereinafter expressly provided, the Official Trustee shall have the same powers, duties and liabilities and be entitled to the same rights and privileges and be subject to the same control and orders of the Court as any other trustee acting in the same capacity

(3) The Official Trustee may decline, either absolutely or except on such conditions as he may impose, to accept any trust.

(4) The official Trustee shall not accept any trust under any composition or scheme of arrangement for the benefit of creditors, nor of any estate known or believed by him to be insolvent.

(5) The Official Trustee shall not, save as provided by any rules made under this Act, accept any trust for a religious purpose or any trust which involves the management or carrying on of any business,

(6) The Official Trustee shall not, administer the estate of a deceased person, unless he is expressly appointed sole executor of, and sole trustee under, the will of such person.

(7) The Official Trustee shall always be sole trustee, and it shall not be lawful to appoint the Official Trustee to be trustee along with any other person.

8. (1) Any person intending to create a trust other than a trust which the Official Trustee is prohibited from accepting under the provisions of this Act may by the instrument creating the trust and with the consent of the Official Trustee, appoint him by that name or any other sufficient description to be the trustee of the property subject to such trust .

Official Trustee may with consent be appointed trustee of settlement by grantor

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Official Trustee

(2) Upon such appointment the property subject to the trust shall vest in such Official Trustee, and shall be held by him upon the trusts declared in such instrument.

9. When the Official Trustee has by that name or any other sufficient description been appointed trustee Appointment of Official Trustee as trustee by will under any will, the executor of the will of "the"* testator or the administrator of his estate shall, after obtaining probate or letters of administration, notify in the prescribed manner the contents of such will to such Official Trustee , and, if such Official Trustee consents to accept the trust, then upon the execution by such executor or administrator of an instrument in writing transferring the property subject to the trust to the Official Trustee, such property shall vest in such Official Trustee, and shall be held by him upon the trusts expressed in the said will .

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Official Trustee.

10. (1) If any property is subject to a trust other than a trust which the Official Trustee is prohibited from accepting under the provisions of this Act, and there is no trustee within the local limits of the ordinary or extraordinary original civil jurisdiction of the High Court willing or capable to act in the trust, the High Court may on application make an order for the appointment of the Official Trustee by that name with his consent to be the trustee of such property.

(2) Upon such order such property shall vest in the Official Trustee and shall be held by him upon the same trusts as the same

* The word within quotations has been inserted by Act 18 of 1919.

was held previously to such order, and the previous trustee or trustees (if any) shall be exempt from liability as trustees of such property save in respect of acts done before the date of such order.

(3) Nothing in this section shall be deemed to affect the provisions of the Trustees' and Mortgagees' Powers Act, 1866,* or the Indian Trusts Act, 1882 †

11. (1) If any property is subject to a trust other than a trust which the Official Trustee is prohibited from accepting under the provisions of this Act, and all the trustees or the surviving or continuing trustee or trustees and all persons beneficially interested in the trust are desirous that the Official Trustee shall be appointed in the room of such trustee or trustees, it shall be lawful for such trustee or trustees, by an instrument in writing to appoint the Official Trustee by that name or any other sufficient description with his consent to be the trustee of such property.

Power of private trustees to appoint official Trustee to be trustee of property.

Provided that the consent of the Official Trustee shall be recited in the same instrument and that such instrument shall be duly executed by him

(2) Upon such appointment such property shall vest in the Official Trustee and shall be held by him upon the same trusts as the same was held previously to such appointment, and the previous trustee or trustees shall be exempt from all liability as trustees of such property save in respect of acts done before the date of such appointment.

12. (1) If any infant or lunatic is entitled to any gift, legacy or share of the assets of a deceased person, it shall be lawful for the person by whom such gift is made, or executor or administrator by whom such legacy or share is payable or transferable, or any trustee of such gift, legacy or share, to transfer the same by an instrument in writing to the Official Trustee by that name or any other sufficient description with his consent.

Executor or administrator may pay to Official Trustee legacy, share, etc., of infant or lunatic.

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Official Trustee.

(2) Any money or property transferred to the Official Trustee under this section shall vest in him and shall be subject to the same provisions as are contained in this Act as to other property vested in such Official Trustee

* Act XXVIII. of 1866.

† Act II. of 1882.

Official Trustee not to be required to give bond or security.

13. (1) No Official Trustee shall be required by any Court to enter into any bond or security on his appointment in any capacity under this Act.

(2) No Official Trustee or Deputy Official Trustee shall be required to verify otherwise than by his signature any petition presented by him under the provisions of this Act, and if the facts stated in any such petition are not within the Official Trustee's personal knowledge, the petition may be verified and subscribed by any person competent to make the verification.

14. The entry of the Official Trustee by that name in the books of a company shall not constitute notice of a trust, and a company shall not be entitled to object to enter the name of the Official Trustee on its register by reason only that the Official Trustee is a corporation; and, in dealing with property, the fact that the person dealt with is the Official Trustee shall not of itself constitute notice of a trust.

15. (1) The revenues of the Government* shall be liable to make good all sums required to discharge any liability which the Official Trustee, if he were a private trustee, would be personally liable to discharge, except when the liability is one to which neither the Official Trustee nor any of his officers has in any way contributed or which neither he nor any of his officers could by the exercise of reasonable diligence have averted, and in either of those cases the Official Trustee shall not, nor shall the revenues of "the Government or"† of the Government of India, be subject to any liability.

(2) Nothing in sub-section (1) shall be deemed to render the revenues "of the Government or"† of the Government of India or any Official Trustee appointed under this Act liable for anything done by or under the authority of any Official Trustee before the commencement of this Act.

16. Nothing in section 80 of the Code of Civil Procedure, 1908,‡ shall apply to any suit against the Official Trustee in which no relief is claimed against him personally.

Notice of suit not required in certain cases.

* Certain words after this repealed by Act 21 of 1922 have been omitted.

† The words within quotations have been inserted by Act 21 of 1922.

‡ Act V, of 1908

PART IV.

FEES.

17. (1) There shall be charged in respect of the duties of the Official Trustee such fees, whether by way of percentage or otherwise, as the Government may prescribe ,

Provided that in the case of a trust accepted by the Official Trustee before the commencement of the Act the fees prescribed under this section shall not exceed the fees leviable in respect of such trust under the Official Trustees Act, 1864,* as subsequently amended.

(2) The fees under this section may be at different rates for different properties or classes of properties or for different duties, and shall, so far as may be, be arranged so as to produce an amount sufficient to discharge the salaries and all other expenses incidental to the working of this Act (including such sum as Government may determine to be required to insure the revenues of the Government † against loss under this Act)

18, (1) All expenses which might be retained or paid out of the trust fund, if the Official Trustee were a private trustee, shall be so retained or paid, and any fees leviable under this Act shall be retained or paid in like manner as and in addition to such expenses.

(2) The Official Trustee shall transfer and pay to such authority and in such manner and at such times as the Government may prescribe, all fees received by him under this Act, and the same shall be carried to the account and credit of the Government.†

PART V.

AUDIT

19 (1) The accounts of the Official Trustee shall be audited at least once annually at any other time if the Government so direct by the prescribed person and in the prescribed manner.

(2) The auditor shall examine such accounts, and shall forward to Government a statement thereof in the prescribed form,

* Act XVII, of 1864.

† Certain words after this repealed by Act 21 of 1922 have been omitted.

together with a report thereon and a certificate signed by him showing—

- (a) whether the accounts contain a full and true account of everything which ought to be contained therein, and,
- (b) whether the books, which by any rules made under this Act are directed to be kept by the Official Trustee, have been duly and regularly kept, and
- (c) whether the trust funds and securities have been duly kept and invested and deposited in the manner prescribed by this Act or any rules made thereunder ;

or (as the case may be) that such accounts are deficient or that the Official Trustee has failed to comply with this Act or the rules made thereunder, in such respects as may be specified in in such certificate

20 (1) Every auditor shall have the powers of a Civil Court under the Code of Civil Procedure, 1908,*

Auditor's power to summon witnesses and to call for documents

- (a) to summon any person whose presenee he may think necessary to attend him from time to time, and
- (b) to examine any person, on oath to be by him administered and
- (c) to issue a commission for the examination on interrogatories or otherwise of any person, and
- (d) to summon any person to produce any document or thing the production of which appears to be necessary for the purposes of such audit or examination.

(2) Any person who, when summoned, refuses, or without reasonable cause neglects to attend or to produce any document or thing or attends and refuses to be sworn, or to be examined, shall be deemed to have committed an offence within the meaning of, and punishable under, section 188 of the Indian Penal Code,† and the auditor shall report every case of such refusal or neglect to Government

21. The cost of and incidental to every such audit and examination shall be determined in accordance with rules made by the Government and shall be defrayed in the prescribed manner.

Costs of audit, etc, how paid.

22 Every beneficiary under a trust which is being administered by the Official Trustee shall, subject to such conditions and restrictions as may be prescribed, be entitled, at all reasonable times, to inspect the accounts of such

Right of beneficiary to inspection and copies of accounts

* Act V. of 1908

† Act XLV, of 1860.

trust, and the report and certificate of auditor and, on payment of the prescribed fee, to be furnished with copies thereof or extracts therefrom and nothing in the Indian Trusts Act, 1882* shall affect the provisions of this section.

PART VI.

MISCELLANEOUS

23. When any moneys payable to a beneficiary under a trust have been in the hands of any Official Trustee for a period of twelve years or upwards whether before or after the commencement of this Act in consequence of the Official Trustee having been unable to trace the person entitled to receive the same, such moneys shall be transferred in the prescribed manner to the account and credit of the Government†

Provided that no such moneys shall be so transferred if any suit or proceeding is pending in respect thereof in any Court

24. (1) If any claim is made to any moneys so transferred and such claim is established to the satisfaction of the prescribed authority, the Government† shall pay to the claimant the amount in respect of which the claim is established

Mode of proceeding by claimant to recover money so transferred

(2) If such claim is not established to the satisfaction of the prescribed authority, the claimant may without prejudice to his right to take any other proceedings for the recovery of such moneys, apply by petition to the High Court against the Secretary of state for India in Council, and, after taking such evidence as it thinks fit such Court shall make such order on the petition in regard to the payment of such moneys as it thinks fit, and such order shall be binding on all parties to the proceedings

(3) The Court may further direct by whom all or any part of the costs of such proceedings shall be paid

Power of High Court to make orders in respect of property vested in Official Trustee

25. The High Court may make such orders as it thinks fit respecting any trust property vested in the Official Trustee, or the interest or produce thereof.

Who may apply for order under Act

26 Any order under this Act may be made on the application of any person beneficially interested in any trust property or of any trustee thereof.

* Act II. of 1882

† Certain words after this repealed by Act 21 of 1922 have been omitted,

Order of Court to have effect of a decree **27** Any order made by a High Court under this Act shall have the same effect as a decree.

28. The Official Trustee may, in addition to and not in derogation of any other powers of expenditure lawfully exercisable by him, incur expenditure—
General powers of administration.

- (a) on such acts as may be necessary for the proper care and management of any property belonging to any trust administered by him, and
- (b) with the sanction of the High Court on such religious, charitable and other objects and on such improvements as may be reasonable and proper in the case of such property

Transfer of trust property by Official Trustee to original trustee or any other trustee. **29** (1) Nothing in this Act shall be deemed to prevent the transfer by the Official Trustee of any property vested in him to—

- (a) the original trustee (if any), or
- (b) any other lawfully appointed trustee, or
- (c) any other person if the Court so directs

(2) Upon such transfer such property shall vest in such trustee, and shall be held by him upon the same trusts as those upon which it was held prior to such transfer, and the Official Trustee shall be exempt from all liability as trustee of such property except in respect of acts done before such transfer

Provided that, in the case of any transfer under this section, the Official Trustee shall be entitled to retain out of the property any fees leviable in accordance with the provisions of this Act.

30 (1) The Government shall make rules for carrying into effect the objects of this Act and for regulating the proceedings of the Official Trustee in the discharge of his duties
Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the accounts to be kept by the Official Trustee and the audit and inspection thereof,
- (b) the safe custody, and deposit of the funds and securities which come into the hands of the Official Trustee,
- (c) the remittance of sums of money in the hands of the Official Trustee in cases in which such remittances are required,
- (d) the statements, schedules and other documents to be submitted by the Official Trustee to Government or

to any other authority and the publication of such statements, schedules or other documents ,

(e) the realization of the cost of preparing any such statements, schedules or other documents ; *

(f) subject to the provisions of this Act, the fees to be paid thereunder and the collection and accounting for any fees so fixed ;

(g) the manner in which and the person by whom the costs of and incidental to any audit under the provisions of this Act are to be determined and defrayed ,

(h) the manner in which summonses issued under the provisions of section 20 are to be served and the payment of the expenses of any person summoned or examined under the provisions of this Act and of any expenditure incidental to such examination ,

(i) the acceptance by the Official Trustee of trusts for religious purposes and trusts which involve the management or carrying on of business , and

(j) any matter in this Act directed to be prescribed.

(3) rules made under the provisions of this section shall be published in the official Gazettee, and shall thereupon have effect as if enacted in this Act

31. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor-General in Council may, by notification in the *Gazette of India*,—

Division of Presidency
into Provinces

(a) remove any of the territories included in the Presidency of Bengal from such Presidency and constitute the same into Provinces for the purposes of this Act ;

(b) direct that for the purposes of this Act any of the territories of any Native State in India shall be included in any Province so constituted , and

(c) appoint any person qualified in accordance with the provisions of sub-section (2) of section 4, or who holds office under Government to be an Official Trustee for any such Province to be called the Official Trustee of the Province.

and subject to the provisions of this section the following consequences shall thereupon ensue, namely —

(i) the Official Trustee of a Province shall by that name have the like rights, powers, privileges and liabilities, and perform the like duties in the Province as the Official Trustee of the Presidency within which

* Sub clause (ee) was inserted by Act 10 of 1914 but was repealed by Act 5 of 1917 and hence it is omitted.

such territories were included had and performed as Official Trustee therein, and shall be deemed to be his successor in office :

- (ii) the powers and duties of the Government under this Act shall, as regards the Province, be exercised and discharged by the Governor-General in Council, or by such Local Government as the Governor-General in Council may, by notification in the *Gazette of India*, appoint in this behalf, and the Gazettee of the Government exercising and discharging such powers and duties shall be the official Gazette of the Province for the purposes of this Act.
- (iii) the powers and duties assigned by the foregoing provisions of this Act to the High Court shall be exercised and discharged in respect of such Province by such Court as the Governor-General in Council may, by notification in the *Gazette of India*, appoint in this behalf
- (iv) in the foregoing provisions of this Act, the word "Presidency" shall be deemed to include a Province ; and
- (v) generally, the provisions of the foregoing sections with respect to the High Court and the provisions of this Act and of any other enactment for the time being in force with respect to the Official Trustee of a Presidency shall, in relation to a Province, be construed so far as may be to apply to the Court and the Official Trustee respectively appointed for the Province under this section

(2) Any proceeding which was commenced before the publication of the notification constituting the Province and to or in which the Official Trustee of any Presidency within which any territories constituted into a Province are situate was a party or was otherwise concerned shall be continued as if the notification had not been published.

(3) If by reason of the constitution of Provinces for the purposes of this Act it appears to the Governor-General in Council that any property vested in the Official Trustee of any Presidency should be vested in the Official Trustee of a Province, he may direct that the property shall be so vested, and thereupon it shall vest in the Official Trustee of the Province as fully and effectually for the purposes of this Act as if it had originally been vested in him under this Act.

(4) If in accordance with the provisions of this section territories have been removed from the Presidency of Bengal and constituted a Province for the purposes of this Act, the Governor-

General in Council may, by notification in the *Gazette of India*, direct that as regards the Presidency of Bengal excluding the territories so removed the powers and duties of the Government under the Act shall be exercised and discharged by the Local Government of Bengal, and that the official Gazette shall be the *Calcutta Gazette*

(5) Upon the rescission of a notification constituting a Province under sub-section (1) the territories comprised therein shall again form part of the Presidency within which they were originally included, the office of Official Trustee for the Province shall determine and all properties vested in and all proceedings by or against such Official Trustee pending at the date of the rescission shall vest in and be carried on by or against such Official Trustee or Official Trustees as the Governor-General in Council may direct.

Saving of provisions of
Indian Registration Act
1908

32. Nothing contained in this Act shall be deemed to affect the provisions of the Indian Registration Act, 1908 *

Repeals.

33. The enactments specified in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

Provided that any property subject to a trust by or in pursuance of any such enactment vested in any Official Trustee at the commencement of this Act shall be deemed to be vested in the Official Trustee under this Act to be held by him upon the same trusts as those upon which such property was held before such commencement.

THE SCHEDULE ENACTMENTS REPEALED (See section 23)

Year	No	Short title.	Extent of repeal
1864 ..	XVII.	The Official Trustees Act, 1864.	So much as has not already been repealed
1890 ..	II	The Probate and administration Act 1890	So much of the title and Preamble as relates to the Official Trustees Act, 1864, and sections 1 to 8
1902 .	V	The Administrators General and Official Trustees Act, 1902.	So far as it refers to the office of Official Trustee, or Deputy Official Trustee

* Act XVI of 1908.

ACT NO. III. OF 1913.

The Administrator General's Act, 1913.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the G. G.'s assent on the 27th February, 1913.

An Act to consolidate and amend the law relating to the office and duties of Administrator-General.

WHEREAS it is expedient to consolidate and amend the law relating to the office and duties of Administrator-General; It is hereby enacted as follows :

PART I.

PRELIMINARY.

Short title, extent and commencement

1 (1) This Act may be called the Administrator-General's Act, 1913

(2) It extends to the whole of British India, including the Sonthal Parganas and British Baluchistan, and applies also to all British Indian subjects of His Majesty in the territories of Native States in India.

(3) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, direct.

Interpretation clause.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "assets" means all the property, moveable and immoveable, of a deceased person, which is chargeable with, and applicable to, the payment of his debts and legacies, or available for distribution among his heirs and next of kin.

(2) "exempted person" means an Indian Christian, a Hindu, Muhammadan, Parsi or Buddhist, or a person exempted under section 332 of the Indian Succession Act, 1865,* from the operation of that Act.

(3) "Government" means the Governor-General in Council, so far as the Act relates to the Presidency of Bengal and the Local Governments of Madras and Bombay respectively, so far as the Act relates to those Presidencies.

* Act X. of 1865.

(4) "Indian Christian" means a Native of India who is or in good faith claims to be of unmixed Asiatic descent, and who professes any form of the Christian religion :

(5) "Letters of Administration" includes any letters of administration, whether general or with a copy of the will annexed, or limited in time or otherwise.

(6) "Next-of-kin" includes a widower or widow of a deceased person, or any other person who by law would be entitled to letters of administration in preference to a creditor or legatee of the deceased .

(7) "Official Gazette" means, in the case of the Presidency of Bengal, the *Gazette of India*, and in the cases of the Presidencies of Madras and Bombay, the *Fort St. George* and *Bombay Government Gazettes*, respectively .

(8) "Prescribed" means prescribed by rules under this Act .

(9) (a) "Presidency of Bengal" includes the territories for the time being under the Government of the Governor of Fort William in Bengal in Council, the United Provinces of Agra and Oudh, the provinces of the Punjab, Burma, Bihar and Orissa, the Central Provinces, Assam, the North-West Frontier Province, the province of Delhi Ajmer and Merwara, the Andaman and Nicobar Islands, and such of the territories of Native States aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, direct :

(b) "Presidency of Bombay" includes the territories for the time being under the Government of the Governor of Bombay in Council, the Province of British Beluchistan, and such of the territories of Native States aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, direct .

(c) "Presidency of Madras" includes the territories for the time being under the government of the Governor of Fort St. George in Council, the province of Coorg, and such of the territories of Native States aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, direct.

(10) "Presidency" means any of the Presidencies mentioned in clause (9).

(11) "revenues of the Government means in respect of any part of India in which the powers and duties of the Government under this act are exercised and discharged by a Local Government, the revenues allocated to that Government under the Government of India Act."*

* The words within quotations have been added by Act 21 of 1922.

PART II.

THE OFFICE OF ADMINISTRATOR-GENERAL.

Appointment and designation of the Administrator-General in the three Presidencies.

3. (1) In each of the Presidencies of Bengal, Madras and Bombay, the Government shall appoint an Administrator-General.

(2) No person shall be appointed to the office of Administrator-General of any of the said Presidencies who is not—

(a) a Barrister; or

(b) an Advocate, Attorney or Vakil enrolled by a High Court.

(c) a person holding the office of Deputy Administrator-General at the commencement of this Act.

(3) The said Administrators-General shall be called respectively the Administrator-General of Bengal, the Administrator-General of Madras, and the Administrator-General of Bombay

4. The Government may appoint a Deputy or Deputies to assist the Administrator-General; and any Deputy so appointed shall, subject to the control of the Government and the general or special orders of the Administrator-General,

Appointment and powers of Deputy Administrators General

be competent to discharge any of the duties and to exercise any of the powers of the Administrator-General, and when discharging such duties or exercising such powers shall have the same privileges and be subject to the same liabilities as the Administrator-General.

5. The Administrator-General shall be a corporation sole by the name of the Administrator-General of the Presidency for which he is appointed and, as such Administrator-General, shall have perpetual succession and an official seal, and may sue and be sued in his corporate name.

Administrator General to be a corporation sole, to have perpetual succession and official seal and to sue and be sued in his corporate name

PART III.

RIGHTS, POWERS, DUTIES AND LIABILITIES OF THE
ADMINISTRATOR-GENERAL*(a) Grants of Letters of Administration and Probate,*

6. So far as regards the Administrator-General of any Presidency, the High Court at the Presidency-

As regards Administrator-General, High Court at Presidency-town to be deemed a Court of competent jurisdiction for the purpose of granting probate or letters of administration

town shall be deemed to be a Court of competent jurisdiction for the purpose of granting probate or letters of administration under any law for the time being in force wheresoever within the Presidency the estate to be administered is situate

7. Any letters of administration, which are granted after the commencement of this Act by the High Court at any Presidency-town, shall be granted to the Administrator-General of the Presidency, unless they are granted to next-of kin of the deceased

Administrator-General entitled to letters of administration in preference to creditor, non-universal legatee or friend

8. The Administrator-General of the Presidency shall be deemed by all the Court in the Presidency to have a right to letters of administration other than letters *pendente lite* in preference to that of—

- (a) a creditor
- (b) a legatee other than an universal legatee, or
- (c) a friend of the deceased

When Administrator-General is to administer estates of persons other than exempted persons

9 If any person, not being an exempted person, has died leaving within any Presidency assets exceeding the value of one thousand rupees,

and if no person to whom any Court would have jurisdiction to commit administration of such assets has, within one month after his death, applied in such Presidency for probate of his will or for letters of administration of his estate,

the Administrator-General of the Presidency in which such assets are shall, subject to any rules made by the Government, within a reasonable time after he has had notice of the death of such person, and of his having left such assets, take such proceedings as may be necessary to obtain from the High Court at the Presidency-town letters of administration of the estate of such person.

10. Whenever any person has died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court at a Presidency-town, the Court, on being satisfied that danger is to be apprehended of misappropriation, deterioration or waste of such assets unless letters of a Administration of the estate of such person are granted, may upon the application of the Administrator-General or of any person interested in such assets or in the due administration thereof, make an order upon such terms as to indemnifying the Administrator-General against costs and other expenses as the Court thinks fit, directing the Administrator-General to apply for letters of administration of the estate of such person .

Provided that, in the case of an application being made under this section for letters of administration of the estate of an exempted person, the Court may refuse to grant letters of administration, if it is satisfied that such grant is unnecessary for the protection of the assets , and in such case the Court shall make such order as to the costs of the application as it thinks fit.

Power to direct Administrator General to collect and hold assets until right of succession or administration is determined

11. (1) Whenever any person has died leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts,

and such Court is satisfied that there is no person immediately available, who is legally entitled to the succession to such assets, or that danger is to be apprehended of misappropriation, deterioration or waste of such assets, before it can be determined who may be legally entitled to the succession thereto, or whether the Administrator-General is entitled to letters of administration of the estate of such deceased person,

the Court may, upon the application of the Administrator-General or of any person interested in such assets, or in the due administration thereof, forthwith direct the Administrator General to collect and take possession of such assets, and to hold, deposit, realise, sell or invest the same according to the directions of the Court, and in default of any such directions according to the provisions of this Act so far as the same are applicable to such assets.

(2) Any order of the Court made under the provisions of this section shall entitle the Administrator-general,

(a) to maintain any suit or proceeding for the recovery of such assets, and

(b) if he thinks fit, to apply for letters of administration of the estate of such deceased person, and

- (c) to retain out of the assets of the estate any fees chargeable under rules made under this Act, and to reimburse himself for all payments made by him in respect of such assets which a private administrator might lawfully have made,

Grant of probate or letters of administration to person appearing in the course of proceedings taken by Administrator-General under sections 9, 10 and 11.

12. If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10, or section 11 any person appears and establishes his claim—

- (a) to probate of the will of the deceased, or
(b) to letters of administration as next-of-kin of the deceased, and gives such security as may be required of him by law,

the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator-General the costs of any proceedings taken by him, under those sections to be paid out of the estate as part of the testamentary or intestate expenses thereof.

13. If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10 or section 11, no person appears and establishes his claim to probate of a will, or to a grant of letters of administration as next-of-kin of the deceased, within such period as to the Court seems reasonable,

or if a person who has established his claim to a grant of letters of administration as next-of-kin of the deceased fails to give such security as may be required of him by law,

the Court may grant letters of administration to the Administrator-General

Administrator-General not precluded from applying for letters within one month after death

14. Nothing in this Act shall be deemed to preclude the Administrator-General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

(b) *Estates of Persons subject to the Army Act.*

Act not to affect Regimental Debts Act, 1893

15. Nothing in this Act shall be deemed to affect the provisions of the Regimental Debts Act, 1893 *

16 It shall not be necessary for the Administrator-General

Letters of administration not necessary in respect of small estates administered by Administrator-General in accordance with the Regimental Debts Act, 1893

to take out letters of administration of the estate of any deceased person which is being administered by him in accordance with the provisions of the Regimental Debts Act, 1893 * if the value of such estate does not on the date when such administration is committed to him exceed rupees one thousand, but he shall have the same power in regard to such estate as he would have had if letters of administration had been granted to him.

17. If the Administrator-General applies, in accordance with the provisions of the Regimental Debts Act

Power to grant Administrator-General letters limited to purpose of dealing with assets in accordance with the Regimental Debts Act, 1893.

1893,* for letters of administration of the estate of any person subject to the Army Act, the Court may grant to him letters of administration limited to the purpose of dealing with such estate in accordance with the provisions of the Regimental Debts

Acr 1893 *

*(c) Revocation of Grants***18** If an executor or next-of-skin of the deceased, who has

Recall of Administrator General's administration and grant of probate, etc., to executor or next of-kin.

not been personally served with a citation or who has not had notice thereof in time to appear pursuant thereto establishes to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator-

General, any letters of administration granted in accordance with the provisions of this Act to the Administrator-General may be revoked, and probate or letters of administration may be granted to such executor or next-of-kin as the case may be.

Provided that no letters of administration granted to the Administrator-General shall be revoked for the cause aforesaid, except in cases in which a will of the deceased is proved in the Presidency, unless the application for that purpose is made within six months after the grant to the Administrator-General and the Court is satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made.

19 If any letters of administration granted to the Adminis-

Cost of obtaining administration, etc., may, on revocation, be ordered to be paid to Administrator-General out of assets.

trator-General in accordance with the provisions of this Act are revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any fees which would otherwise have been payable under this Act,

together with the costs of the Administrator-General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator-General out of the estate .

Provided that nothing in this section shall affect to the provisions of clause (c) of sub-section (2) of section 11.

20. If any letters of administration granted to the Administrator-General in accordance with the provisions of this Act are revoked, the same shall, so far as regards the Administrator-General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator-General or other person as aforesaid, after notice of a will or of any other fact which would render such letters void .

Provided that no notice of a will or of any other fact which would render any such letters void shall affect the Administrator-General or any person acting under his authority in pursuance of such letters unless, within the period of one month from the time of giving such notice, proceedings are commenced to prove the will or to cause the letters to be revoked, and such proceedings are prosecuted without unreasonable delay

21. If any letters of administration granted to the Administrator-General in accordance with the provisions of this Act are revoked, upon the grant of probate of a will, or upon the grant of letters of administration with a copy of the will annexed, all payments made or acts done by or under the authority of the Administrator-General in pursuance of such letters of administration, prior to the revocation, which would have been valid under any letters of administration lawfully granted to him with a copy of such will annexed, shall be deemed valid notwithstanding such revocation.

(d) *General.*

22. Whenever any Administrator-General applies for letters of administration in accordance with the provisions of this Act, it shall be sufficient if the petition required to be presented for the grant of such letter states,

Administrator-General's petition for grant of letters of administration

- (i) the time and place of the death of the deceased to the best of the knowledge and belief of the petitioner.
- (ii) the names and addresses of the surviving next-of-kin of the deceased if known,
- (iii) the particulars and value of the assets likely to come into the hands of the petitioner,
- (iv) particulars of the liabilities of the estate if known.

23 (1) All probates or letters of administration granted to any Administrator General shall be granted to him by that name and all probates or letters of administration heretofore granted to the Ecclesiastical Registrar, or to the Administrator General of any Presidency shall authorise the Administrator General of the same Presidency to act as executor or administrator, as the case may be, of the estate to which such probate or letters relate.

(2) All probates and letters of administration granted to the Ecclesiastical Registrar of any of the late Supreme Courts shall have the same effect in all respects as to any act hereafter done or required to be done under this Act as if they had been granted to the Administrator General.

24 Probate or letters of administration granted by the High Court at any Presidency-town to the Administrator General of any Presidency shall have effect over all the assets of the deceased throughout such Presidency, and shall be conclusive as to the representative title against all debtors of the deceased and all persons holding such assets, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such assets to such Administrator-General :

Provided that the High Court may direct, by its grant, that such probate or letters of administration shall have like effect throughout one or more of the other presidencies

Whenever a grant is made by a High Court to the Administrator-General with such effect as last aforesaid, the Court shall send to the other High Courts a certificate that such grant has been made, and such certificate shall be filed by the Court receiving the same.

25 (1) Any private executor or administrator may, with the previous consent of the Administrator-General of the Presidency in which any of the assets of the estate, in respect of which such executor or administrator has obtained probate or letters of administration, are situate, by an instrument in writing under his hand notified in the official Gazette, transfer the assets of the estate vested in him by virtue of such probate or letters to the Administrator-General by that name or any other sufficient description.

(2) As from the date of such transfer the transferor shall be exempt from all liability as such executor or administrator, as the case may be, except in respect of acts done before the date of such transfer, and the Administrator General shall have the rights

which he would have had, and be subject to the liabilities to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by that name at the date of such transfer.

26 (1) When the Administrator-General has given the prescribed notice for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof in discharge of such lawful claims as he has notice of

(2) He shall not be liable for the assets so distributed to any person of whose claim he had not notice at the time of such distribution.

(3) No notice of any claim which has been sent in and has been rejected or disallowed in part by the Administrator-General shall affect him unless proceedings to enforce such claim are commenced within one month after notice of the rejection or disallowance of such claim has been given in the prescribed manner and unless such proceedings are prosecuted without unreasonable delay

(4) Nothing in this section shall prejudice the right of any creditor or other claimant to follow the assets or any part thereof in the hands of the persons who may have received the same respectively.

(5) In computing the period of limitation for any suit, appeal or application under the provisions of any law for the time being in force, the period between the date of submission of the claim of a creditor to the Administrator-General and the date of the final decision of the Administrator-General on such claim shall be excluded

27 (1) When the Administrator-General has, so far as may be discharged all the liabilities of an estate administered by him, he shall notify the fact in the official Gazette, and he may, by an instrument in writing, with the consent of the Official Trustee and subject to any rules made by the Government, appoint the Official Trustee to be the trustee of any assets then remaining in his hands

(2) Upon such appointment such assets shall vest in the Official Trustee as if he had been appointed trustee in accordance with the provisions of the Official Trustees Act 1913, and shall be held by him upon the same trusts as the same were held immediately before such appointment.

28. (1) The High Court at the Presidency-town may, on application made to it, give to the Administrator-General of the Presidency any general or special directions as to any estate in his charge or in regard to the administration of any such estate.

(2) Applications under sub-section (1) may be made by the Administrator General or any person interested in the assets or in the due administration thereof.

29 (1) No Administrator-General shall be required by any Court to enter into any administration-bond, or to give other security to the Court, on the grant of any letters of administration to him by that name

No security nor oath to be required from Administrator-General

(2) No Administrator-General or Deputy Administrator-General shall be required to verify, otherwise than by his signature, any petition presented by him under the provision of this Act, and, if the facts stated in any such petition are not within the Administrator-General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification.

Manner in which petitions to be verified by Administrator-General and his Deputy

(3) The entry of the Administrator-General by that name in the books of a Company shall not constitute notice of a trust, and a Company shall not be entitled to object to enter the name of the Administrator-General on its register by reason only that the Administrator-General is a corporation and in dealing with assets the fact that the person dealt with is the Administrator-General shall not of itself constitute notice of a trust.

Entry of Administrator-General not to constitute notice of a trust.

30 The Administrator-General may, whenever he desires, for the purposes of this Act, to satisfy himself regarding any question of fact, examine upon oath (which he is hereby authorised to administer) any person who is willing to be so examined by him regarding such question.

Power to examine on oath.

(e) Grant of Certificates.

31. Whenever any person has died leaving assets within any Presidency, and the Administrator-General of such Presidency is satisfied that such assets, excluding any sum of money deposited in a Government Savings Bank, or in any Provident Fund to which the provisions of the Provident Funds Act, 1897,* apply, did not at the date of death exceed in the whole one thousand rupees—in value he may, after the lapse of one month from the death if he thinks fit, or before the lapse of the said month if he is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the estate of the deceased, grant to any person, claiming otherwise than as a creditor to be interested in such assets, or in

In what case Administrator-General may grant certificate

* Act IX. of 1897.

the due administration thereof, a certificate under his hand entitling the claimant to receive the assets therein mentioned left by the deceased, within the Presidency to a value not exceeding in the whole one thousand rupees :

Provided that no certificate shall be granted under this section—

- (i) where probate of the deceased's will or letters of administration of his estate has or have been granted, or
- (ii) in respect of any sum of money deposited in a Government Savings Bank or in any Provident Fund to which the provisions of the Provident Funds Act 1897,* apply.

32. If, in cases falling within section 31, no person claiming to be interested otherwise than as a creditor in such assets or in the due administration thereof obtains within three months of the death of the deceased a certificate from the Administrator-General under the same section, or probate of a will or letters of administration of the estate of the deceased, and such deceased, was not an exempted person, or was an exempted person who has left assets within the ordinary original civil jurisdiction of the High Court, or within any area notified by the Government in this behalf in the official Gazette, the Administrator-General may administer the estate without letters of administration, in the same manner as if such letters had been granted to him ,

and if he neglects or refuses to administer such estate, he shall upon the application of a creditor, grant a certificate to him in the same manner as if he were interested in such assets otherwise than as a creditor.

and such certificate shall have the same effect as a certificate granted under the provisions of section 31, and shall be subject to all the provisions of this Act which are applicable to such certificate :

Provided that the Administrator General may, before granting such certificate, if he thinks fit, require the creditor to give reasonable security for the due administration of the estate of the deceased.

33. The Administrator-General shall not be bound to grant any certificate under section 31 or section 32, unless he is satisfied of the title of the claimant and of the value of the assets left by the deceased within the Presidency, either by the oath of the claimant, or by such other evidence as he requires.

Administrator General not bound to grant certificate unless satisfied of claimant's title, etc.

34 The holder of a certificate granted in accordance with the provisions of section 31 or section 32 shall have in respect of the assets specified in such certificate the same powers and duties, and be subject to the same liabilities as he would have had or been subject to if letters of administration had been granted to him :

Provided that nothing in this section shall be deemed to require any person holding such certificate,

(a) to file accounts or inventories of the assets of the deceased before any Court or other authority, or

(b) save as provided in section 32 to give any bond for the due administration of the estate.

35. The Administrator-General may revoke a certificate granted under the provisions of section 31 or section 32 on any of the following grounds, namely :—

(i) that the certificate was obtained by fraud or misrepresentation made to him,

(ii) that the certificate was obtained by means of an untrue allegation of a fact essential in law to justify the grant though such allegation was made in ignorance or inadvertently

36 (1) When a certificate is revoked in accordance with the provisions of section 35, the holder thereof shall, on the requisition of the Administrator-General, deliver it up to such Administrator-General, but shall not be entitled to the refund of any fee paid thereon

(2) If such person wilfully and without reasonable cause omits to deliver up the certificate, he shall be punishable with imprisonment which may extend to three months, or, with fine which may extend to one thousand rupees, or with both.

37 The Administrator-General shall not be bound to take out letters of administration of the estate of any deceased person on account of the assets in respect of which he grants any certificate under section 31 or section 32, but he may do so if he revokes such certificate under section 35 or ascertains that the value of the estate exceeded one thousand rupees.

38. Where a person not having his domicile in British India has died leaving assets in any Presidency and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in any such Presidency have been taken under section 31 or section 32, and there has been a grant of administration

Administrator-General not bound to take out administration on account of assets for which he has granted certificate

Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

in the country of domicile with respect to the assets in that country,

the holder of the certificate granted under section 31 or section 32, or the Administrator-General, as the case may be, after having given the prescribed notice for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he has notice of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

(f) *Liability.*

39. (1) The revenues of the Government * shall be liable to make good all sums required to discharge any liability which the Administrator-General, if he were a private administrator, would be personally liable to discharge, except when the liability is one to which neither the Administrator-General nor any of his officers has in any way contributed or which neither he nor any of his officers could, by the exercise of reasonable diligence have averted, and in either of those cases the Administrator-General shall not, nor shall the revenue "of the Government or" † of the Government of India, be subject to any liability.

(2) Nothing sub-section (1) shall be deemed to render "the Government or" † the Government of India or the Administrator-General liable for anything done before the commencement of this Act, by or under the authority of the Administrator-General.

40. (1) If any suit be brought by a creditor against any Administrator-General, such creditor shall be liable to pay the costs of the suit unless he proves that not less than one month previous to the institution of the suit he had applied in writing to the Administrator-General stating the amount and other particulars of his claim, and had given such evidence in support thereof as, in the circumstances of the case, the Administrator-General was reasonably entitled to require.

(2) If any such suit is decreed in favour of the creditor, he shall, nevertheless, unless he is a secured creditor, be only entitled to payment out of the assets of the deceased equally and rateably with the other creditors.

* certain words after this repealed by Act 21 of 1922 have been omitted.

† The words within quotations have been inserted by Act 21 of 1922.

41. Nothing in section 80 of the Code of Civil Procedure, 1908,* shall apply to any suit against the Administrator-General in which no relief is claimed against him personally.

Notice of suit not required in certain cases

PART IV.

FEES.

42. (1) There shall be charged in respect of the duties of the Administrator-General such fees, whether by way of percentage or otherwise, as may be prescribed by the Government:

Fees.

Provided that, in the case of any estate, the administration of which has been committed to the Administrator-General before the commencement of this Act, the fees prescribed under this section shall not exceed the fees leviable in respect of such estate under the Administrator-General's Act, 1874,† as subsequently amended;

Provided further that, in respect of the duties of the Administrator-General under the Regimental Debts Act, 1893,‡ the fees prescribed in this section shall be determined in accordance with provisions of that Act.

(2) The fees under this section may be at different rates for different estates or classes of estates or for different duties, and shall, so far as may be, be arranged so as to produce an amount sufficient to discharge the salaries and all other expenses incidental to the working of this Act (including such sum as Government may determine to be required to insure the revenues of the Government against loss under this Act).

43. ((1) Any expenses which might be retained or paid out of any estate in the charge of the Administrator-General, if he were a private administrator of such estate, shall be so retained or paid and the fees prescribed under section 42 shall be retained or paid in like manner as and in addition to such expenses.

Disposal of fees.

(2) The Administrator-General shall transfer and pay to such authority in such manner and at such time as the Government may prescribe, all fees received by him under this Act, and the same shall be carried to the account and credit of the Government. §

* Act V of 1908.

† Act II. of 1874.

‡ 55 & 56 Vict., c 57.

§ Certain words after this repealed by Act 21 of 1922 have been omitted.

PART V.

AUDIT OF THE ADMINISTRATOR-GENERAL'S ACCOUNTS.

44. The accounts of every Administrator-General shall be audited at least once annually, and at any other time if the Government so direct, by the prescribed person and in the prescribed manner.

Audit of Administrator-General's accounts

45 The auditors shall examine the accounts and forward to the Government a statement thereof in the prescribed form, together with a report thereon and a certificate signed by them showing—

Auditors to examine accounts and report to Government

- (a) whether they contain a full and true account of everything which ought to be inserted therein,
 - (b) whether the books which by any rules made under his Act are directed to be kept by the Administrator-General, have been duly and regularly kept, and
 - (c) whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or by any rules made thereunder,
- or (as the case may be) that such accounts are deficient, or that the Administrator-General has failed to comply with his Act or the rules made thereunder, in such respects as may be specified in such certificate.

Power of auditors to summon and examine witnesses, and to call for documents.

46. (1) Every auditor shall have the powers of a Civil Court under the Code of Civil Procedure, 1908,*

- (a) to summon any person whose presence he thinks necessary to attend him from time to time ; and
 - (b) to examine any person on oath to be by him administered ; and
 - (c) to issue a commission for the examination on interrogatories or otherwise of any person ; and
 - (d) to summon any person to produce any document or thing the portion of which appears to be necessary for the purpose of such audit or examination.
- (2) Any person who when summoned refuses, or without reasonable cause, neglects to attend or to produce any document or thing or attends and refuses to be sworn, or to be examined, shall be deemed to have committed an offence within the meaning of, and punishable under, section 188 or the Indian Penal Code,†

* Act V of 1908.

† Act XLV. of 1860.

and the auditor shall report every case of such refusal or neglect to Government.

47. The costs of and incidental to such audit and examination shall be determined in accordance with rules made by the Government, and shall be defrayed in the prescribed manner.

PART VI.

MISCELLANEOUS.

48. The Administrator-General may, in addition to, and not in derogation of, any other powers of administration, expenditure lawfully exercisable by him, incur expenditure—

- (a) on such acts as may be necessary for the proper care and management of any property belonging to any estate in his charge ; and
- (b) with the sanction of the High Court at the Presidency-town on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

49 Any person interested in the administration of any estate, which is in the charge of the Administrator-General shall, subject to such conditions and restrictions as may be prescribed, be entitled at all reasonable times to inspect the accounts relating to such estate and the reports and certificates of the auditor, and on payment of the prescribed fee, to copies thereof and extracts therefrom.

50 (1) The Government shall make rules for carrying into effect the objects of this Act and for regulating the proceedings of the Administrator-General.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the accounts to be kept by the Administrator-General and the audit and inspection thereof,
- (b) the safe custody, deposit and investment of assets and securities which come into the hands of the Administrator-General,
- (c) the remittance of sums of money in the hands of the administrator-General, in cases in which such remittances are required,

(3) The District Judge may cause to be paid out of any assets of which he or such officer has charge, or out of the proceeds of such assets or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes namely :—

(a) the payment of the expenses of the funeral of the deceased and of obtaining probate of his will or letters of administration of his estate or a certificate under this Act,

(b) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant,

(c) the relief of the immediate necessities of the family of the deceased, and.

(d) such acts as may be necessary for the proper care and management of the assets left by the deceased,

and nothing in section 279, section 280 or section 281 of the Indian Succession Act 1865 * or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons shall be held to affect the validity of any payment so caused to be made.

Succession Act and Companies Act not to affect Administrator-General, and saving of provisions of Presidency Police Acts as to petty estates.

55. (1) Nothing contained in the Indian Succession Act, 1865,* or the Indian Companies Act, 1882,† shall be taken to supersede or affect the rights, duties and privileges of any Administrator-General.

(2) Nothing contained in the Indian Succession Act, 1865,* or in this Act, shall be deemed to affect, or to have affected, any law for the time being in force relating to the moveable property under two hundred rupees in value of persons dying intestate within any of the Presidency towns or in the town of Rangoon, which shall be or has been taken charge of by the police for the purpose of safe custody.

56 Any order made under this Act by any Court shall have the same effect as a decree.

57. Notwithstanding anything in this Act, or in any other law for the time being in force, the Governor General in Council may, by general or special order, direct, that where a subject of a foreign State dies in British India, and it appears that there is no one in British India, other than the Administrator-General, entitled to apply to a Court of competent jurisdiction for letters of adminis-

Provision for administration by Consular Officer in case of death in certain circumstances of foreign subject.

* Act X. of 1865.

† Act VI. of 1882.

tration of the estate of the deceased, letters of administration shall, on the application to such Court of any Consular Officer of such foreign State, be granted to such Consular Officer on such terms and conditions as the Court may, subject to any rules made in this behalf by the Governor-General in Council by notification in the *Gazette of India* think fit to impose.

58 (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor-General in Council may, by notification in the *Gazette of India*—

- (a) remove any of the territories included in the Presidency of Bengal from such Presidency, and constitute the same into Provinces for the purposes of this Act ;
- (b) direct that for the purposes of this Act any of the territories of any Native State in India shall be included in any Province so constituted ; and
- (c) appoint any person qualified in accordance with the provisions of sub-section (2) of section 3, or who holds office under Government to be an Administrator-General for any such Province to be called the Administrator-General of the Province,

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely —

- (i) the Administrator-General of a Province shall by that name have the like rights, powers, privileges and liabilities, and perform the like duties, in the Province as the Administrator-General of the Presidency within which such territories were included had and performed as Administrator-General therein and shall be deemed to be his successor in office ;
- (ii) the powers and duties of the Government under this Act shall, as regards the Province, be exercised and discharged by the Governor-General; in Council or by such Local Government as the Governor-General in Council may, by notification in the *Gazette of India*, appoint in this behalf ; and the *Gazette of the Government* exercising and discharging such powers and duties shall be the official *Gazette of the Province* for the purposes of this Act .
- (iii) the powers and duties assigned by the foregoing provisions of the Act to the High Court shall be exercised and discharged in respect of such Province by such Court as the Governor-General in Council may, by notification in the *Gazette of India* appoint in this behalf ; and probate or letters of administration gran

ted to the Administrator General of the Province by the Court so appointed shall have the same effect throughout the Province, or, if the Court so directs throughout the Presidencies of Bengal, Bombay and Madras, or any part thereof, as probate or letters of administration granted to the Administrator-General by the High Court at a Presidency town would or might have had ;

(iv) in the foregoing provisions of this Act the word "Presidency" shall be deemed to include a Province, and the expression "Presidency-town" the place of sitting of the Court appointed by Governor-General in Council under clause (ii) of this sub section ,

(v) generally, the provisions of the foregoing sections of this Act with respect to the High Court at a Presidency-town and the provisions of those sections or of any other enactment with respect to the Administrator-General of a Presidency shall, in relation to a Province be construed, so far as may be, to apply to the Court and Administrator-General. respectively, appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification constituting the Province and, to or in which the Administrator-General of any Presidency within which any of the territories constituted into a Province were situate was a party or was otherwise concerned, shall be continued, as if the notification had not been published.

(3) If, by reason of the constitution of Provinces for the purposes of this Act, it appears to the Governor General in Council that any property vested in the Administrator-General of any Presidency should be vested in the Administrator-General of a Province, he may direct that the property shall be so vested, and thereupon it shall vest in the Administrator-General of the Province as fully and effectually for the purposes of this Act as if probate or letters of administration had been granted to him originally.

(4) If in accordance with the provisions of this section territories have been removed from the Presidency of Bengal and constituted a Province for the purposes of this Act, the Governor-General in Council may, by notification in the *Gazette of India*, direct that as regards the Presidency of Bengal excluding the territories so removed, the powers and duties of the Government under this Act shall be exercised and discharged by the Local Government of Bengal, and that the official Gazette shall be the *Calcutta-Gazette*.

(5) Upon the rescission of a notification constituting a Province under sub-section (1), the territories comprised therein shall

again form part of the Presidency within which they were originally included, the office of Administrator-General of the Province shall determine and all properties vested in and all proceedings by or against such Administrator-General pending at the date of the rescission shall vest in and be carried on by or against such administrator-General or Administrators General as the Governor-General in Council may direct.

Saving of provisions of
Indian Registration Act,
1908.

59. Nothing in this Act shall be deemed to affect the provisions of the Indian Registration Act, 1908.*

Repeals.

60. The enactments specified in the Schedule are hereby repealed to the extent specified in the third column thereof :

Provided that any administration, by or in pursuance of any Act hereby repealed, committed to any Administrator-General at the commencement of this Act shall be deemed to be committed to the Administrator-General under this Act.

* Act XVI. of 1908.

THE SCHEDULE.
ENACTMENTS REPEALED.
(See sections 60.)

Number and year.	Short title.	Extent of repeal.
II. of 1874 ...	The Administrator-General's Act, 1874.	So much as has not been repealed.
IX. of 1881 ...	The Administrator-General's Act, 1881.	Ditto
II. of 1890 ...	The Probate and Administration Act, 1890.	So much of the Title and Preamble as relates to the Administrator-General's Act, 1874, and sections 10 to 15.
XII. of 1891 ...	The Amending Act, 1891.	So much as relates to Act II. of 1874.
VII. of 1901 ...	The Native Christian Administration of Estates Act, 1901.	In the Preamble the words "to exempt them from . . . are exempted" and section 4.
V. of 1902. ...	The Administrators-General and Official Trustees Act, 1902.	So far as it relates to Administrators-General and Deputy Administrators-General.

ACT NO. V. OF 1913.

The White Phosphorus Matches Prohibition Act, 1913.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 7th
March, 1913.*

*An Act to prohibit the importation, manufacture and sale of
matches made with white phosphorus.*

Whereas it is expedient to prohibit the importation, manufacture and sale of matches made with white phosphorus; It is hereby enacted as follows —

Short title, extent and commencement. 1. (1) This Act may be called the White Phosphorus Matches Prohibition Act, 1913.

(2) It extends to the whole of British India; and

(3) It shall come into force on the first day of July, 1913, with the exception of section 6, which shall come into force on the first day of July, 1914.

Definition. 2. In this Act, "white phosphorus" means the substance commonly known as white or yellow phosphorus.

Prohibition of importation by addition to section 18, Act VIII. of 1878. 3. To section 18 of the Sea Customs Act, 1878,* the following clause shall be added, namely:—

“(g) matches made with white phosphorus,”

Prohibition of use of white phosphorus in manufacture of matches. 4. (1) No person shall use white phosphorus in the manufacture of matches.

(2) Any person who uses, or permits the use by any person under his control of white phosphorus in the manufacture of matches, shall be punishable with fine which may extend to two hundred rupees.

Power of Inspector of Factories to take samples of material used in manufacture. 5. (1) Every person who manufactures matches shall allow an Inspector of Factories appointed under the Indian Factories Act, 1911, † at any time to take for analysis sufficient samples of any material in use, or mixed for use, in such manufacture:

* Act VIII. of 1878.

† Act XII. of 1911.

Provided that any such person may, at the time the sample is taken, and on providing the necessary appliances, require the Inspector to divide the sample so taken into two parts, and to mark, seal and deliver to him one part.

(2) Any person who refuses to permit any such Inspector of Factories as aforesaid to take a sample, in accordance with the provisions of sub-section (1), shall be punishable with fine which may extend to two hundred rupees.

Prohibition of sale. 6. (1) No person shall sell, or offer or expose for sale, or have in his possession for the purposes of sale, any matches made with white phosphorus.

(2) Any person who contravenes the provisions of sub-section (1) may, on complaint to a *Presidency Magistrate, Sub-divisional Magistrate or Magistrate of the first class*, be ordered to forfeit any such matches in his possession, and any matches so forfeited shall be destroyed or otherwise dealt with as the *Magistrate* may direct.

ACT NO VI. OF 1913

The Mussalman Wakf Validating Act, 1913.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on
the 7th March, 1913.*

*An Act to declare the rights of Mussalmans to make settlements
of property by way of "wakf" in favour of their families
children and descendants.*

WHEREAS doubts have arisen regarding the validity of wakfs created by persons professing the Mussalman faith in favour of themselves, their families, children and descendants and ultimately for the benefit of the poor or for other religious, pious or charitable purposes; and whereas it is expedient to remove such doubts; It is hereby enacted as follows :—

Short title and extent. **1.** (1) This Act may be called the Mussalman Wakf Validating Act, 1913.
(2) It extends to the whole of British India.

Definitions. **2.** In this Act unless there is anything repugnant in the subject or context,—

- (1) "Wakf" means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognized by the Mussalman law as religious, pious or charitable.
- (2) "Hanafi Mussalman" means a followers of the Mussalman faith who conforms to the tenets and doctrines of the Hanafi school of Mussalman law.

3. It shall be lawful for any person professing the Mussalman faith to create a wakf which in all other respects is in accordance with the provisions of Mussalman law, for the following among other purposes :—

Power of Mussalmans
to create certain wakfs.

- (a) for the maintenance and support wholly or partially of his family, children or descendants, and
- (b) where the person creating a wakf is a Hanafi Mussalman, also for his own maintenance and support during his lifetime or for the payment of his debts out of the rents and profits of the property dedicated :

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49. Power of company to arrange for different amounts being paid on shares
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- 56 Application to Court for confirming order
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- 58 Objections by creditors, and settlement of list of objecting creditors.
- 59 Power to dispense with consent of creditor on security being given for his debt
- 60 Order confirming reduction
61. Registration of order and minute of reduction
- 62 Minute to form part of memorandum
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- 66 Increase and reduction of share capital in case of a company limited by guarantee having a share capital

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67. Registration of unlimited company as limited
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ACT NO. VII. OF 1913.

The Indian Companies Act, 1913.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

[Received the G.-G's Assent on the 27th March 1913.]

An Act to consolidate and amend the law relating to Trading Companies and other Associations.

WHEREAS it is expedient to consolidate and amend the law relating to Trading Companies and other association ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title, commencement and extent

1. (1) This Act may be called the Indian Companies Act, 1913.

(2) It shall come into force on the first day of April, 1914 ; and

(3) It extends to the whole of British India including British Baluchistan and the Santhal Parganas.

Definitions,

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "articles" means the articles of association of a company as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained (as the case may be) in Table B in the Schedule annexed to Act No XIX. of 1857 or in Table A in the First Schedule annexed to the Indian Companies Act, 1882,* or in Table A in the first Schedule annexed to this Act :

(2) "company" means a company formed and registered under this Act or an existing company :

(3) "the Court" means the Court having jurisdiction under this Act :

(4) "debenture" includes debenture stock :

(5) "director" includes any person occupying the position of a director by whatever name called :

* Act VI of 1882.

- (6) "District Court" means the principal Civil Court of original jurisdiction in a district, but does not include a High Court in the exercise of its ordinary original civil jurisdiction ,
- (7) "existing company" means a company formed and registered under the Indian Companies Act, 1866,* or under any Act or Acts repealed thereby, or under the Indian Companies Act, 1882†
- (8) "Insurance company" means a company that carries on the business of insurance either solely or in common with any other business or businesses :
- (9) "manager" includes any person occupying the position of a manager by whatever name called and whether under a contract of service or not :
- (10) "memorandum" means the memorandum of association of a company as originally framed or as altered in pursuance of the provisions of this Act :
- (11) "officer" includes any director, manager or secretary but, save in sections 235, 236, and 237, does not include an auditor :
- (12) "prescribed" means, as respects the provisions of this Act relating to the winding up of companies, prescribed by rules made by the High Court, and as respects the other provisions of this Act, prescribed by the Governor-General in Council :
- (13) "private company" means a company which
- (i) by its articles—
 - (a) restricts the right to transfer its shares : and
 - (b) limits the number of its members (exclusive of persons who are in the employ of the company) to fifty ; and
 - (c) prohibits any invitation to the public to subscribe for any shares or debentures of the company : and
 - (ii) continues to observe such restrictions, limitations and prohibitions :
- Provided that where two or more persons hold one or more shares in a company jointly they shall, for the purposes of this definition, be considered as a single member :
- (14) "prospectus" means any prospectus, notice, circular, advertisement or other invitation, offering to the public for subscription or purchase any shares or debentures of a company

* Act X. of 1866.

† Act VI. of 1882.

(15) "the registrar" means a registrar or assistant registrar performing under this Act the duty of registration of companies : and

(16) "share" means share in the share capital of the company, and includes stock except when a distinction between stock and shares is expressed or implied.

3. (1) The Court having jurisdiction under this Act shall be the High Court having jurisdiction in the place at which the registered office of the company is situate .

Provided that the Local Government may, by notification in the local official Gazette and subject to such restrictions and conditions as it thinks fit, empower any District Court to exercise all or any of the jurisdiction by this Act conferred upon the Court, and in that case such District Court shall, as regards the jurisdiction so conferred, be the Court in respect of all companies having their registered offices in the district.

(2) For the purposes of jurisdiction to wind up companies, the expression "registered office" means the place which has longest been the registered office of the company during the six months immediately preceding the presentation of the petition for winding up.

(3) Nothing in this section shall invalidate a proceeding by reason of its being taken in a wrong Court.

PART II.

CONSTITUTION AND INCORPORATION.

4. (1) No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking unless it is registered as a company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor-General in Council, or of Royal Charter or Letters Patent.

(2) No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the company, association or partnership, or by the individual members thereof, unless it is registered as a company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor-General in Council or of Royal Charter or Letters Patent.

Memorandum of Association.

5. Any seven or more persons (or, where the company to be formed will be a private company, any two or more persons); associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability (that is to say), either—

- (i) a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Act termed a company limited by shares); or
- (ii) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Act termed a company limited by guarantee), or
- (iii) a company not having any limit on the liability of its members (in this Act termed an unlimited company)

6 In the case of a company limited by shares—
 Memorandum of company limited by shares—

(1) the memorandum shall state—

- (i) the name of the company with “Limited” as the last word in its name,
- (ii) the province in which the registered office of the company is to be situate;
- (iii) the objects of the company;
- (iv) that the liability of the members is limited;
- (v) the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount—

(2) no subscriber of the memorandum shall take less than one share—

(3) each subscriber shall write opposite to his name the number of shares he takes

7. In the case of a company limited by guarantee—
 Memorandum of company limited by guarantee—

(1) the memorandum shall state

- (i) the name of the company, with “Limited” as the last word in its name;

- (ii) the province in which the registered office of the company is to be situate ,
 - (iii) the objects of the company ;
 - (iv) that the liability of the members is limited ,
 - (v) that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount :
- (2) if the company has a share capital—
- (i) the memorandum shall also state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount ,
 - (ii) no subscriber of the memorandum shall take less than one share ;
 - (iii) each subscriber shall write opposite to his name the number of shares he takes

8. In the case of an unlimited company—

Memorandum of unlimited company.

- (1) the memorandum shall state—
- (i) the name of the company ;
 - (ii) the province in which the registered office of the company is to be situate ;
 - (iii) the objects of the company .
- (2) if the company has a share capital—
- (i) no subscriber of the memorandum shall take less than one share ;
 - (ii) each subscriber shall write opposite to his name the number of shares he takes.

9. The memorandum shall be signed by each subscriber in the presence of at least one witness who shall attest the signature.

Signature of memorandum.

10. A company shall not alter the conditions contained in its memorandum except in the cases and in the mode and to the extent for which express provision is made in this Act.

Restriction on alteration of memorandum.

11. (1) A company shall not be registered by a name identical with that by which a company in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except where the company is in existence in the course of being dissolved and signifies its consent in such manner as the registrar requires.

(2) If a company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a company in existence is previously registered, or so nearly resembling it as to be calculated to deceive, the first-mentioned company may, with the sanction of the registrar, change its name.

(3) A company shall not be registered by a name which contains any of the following words, namely —“Crown,” “Emperor,” “Empire,” “Empress,” “Imperial,” “King,” “Queen,” “Royal,” “Bank of Bengal, Bank of Madras, Bank of Bombay,”* or words expressing or implying the sanction, approval or patronage of the Crown or the Government of India or a Local Government, except where the Governor-General in Council signifies his consent to the use of such words as part of the name of the company by order in writing under the hand of one of the Secretaries to the Government of India :

Provided that nothing in this sub-section shall apply to companies registered before the commencement of this Act.

(4) Any company may, by special resolution and subject to the approval of the Local Government signified in writing, under the hand of one of the Secretaries to such Government, change its name.

(5) Where a company changes its name, the registrar shall enter the new name on the register in place of the former name ; and shall issue a certificate of incorporation altered to meet the circumstances of the case. On the issue of such a certificate the change of name shall be complete.

(6) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company ; and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

12. (1) Subject to the provisions of this Act, a company may, by special resolution, alter the provisions of its memorandum so as to change the place of the registered office from one province to another, or with respect to the objects of the company so far as may be required to enable it—

Alteration of memorandum.

* The words within quotations have been inserted by Act 47 of 1920.

- (a) to carry on its business more economically or more efficiently ; or
- (b) to attain its main purpose by new or improved means ; or
- (c) to enlarge or change the local area of its operations ; or
- (d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company ; or
- (e) to restrict or abandon any of the objects specified in the memorandum.

(2) The alteration shall not take effect until and except in so far as it is confirmed by the Court on petition.

(3) Before confirming the alteration, the Court must be satisfied—

- (a) that sufficient notice has been given to every holder of debentures of the company, and to any persons or class of persons whose interests will, in the opinion of the Court, be affected by the alteration ; and
- (b) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court ;

Provided that the Court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

13. The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper.

Power of Court when confirming alteration.

14. The Court shall, in exercising its discretion under sections 12 and 13, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interest of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members ; and may give such direction and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement :

Exercise of discretion by Court.

Provided that no part of the capital of the company may be extended in any such purchase.

15. (1) A certified copy of the order confirming the alteration, together with a printed copy of the memorandum as altered, shall, within three months from the date of the order, be filed by the company with the registrar, and he shall register the same, and shall certify the registration under his hand, and the certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum so altered shall be the memorandum of the company

(2) Where the alteration involves a transfer of the registered office from one province to another, a certified copy of the order confirming such change shall be filed by the company with the registrar in each of such provinces, and each of such registrars shall register the same, and shall certify under his hand the registration thereof, and the registrar for the province from which such office is transferred shall send to the registrar for the other province all documents relating to the company registered or filed in his office,

(3) The Court may by order at any time extend the time for the filing of documents with the registrar under this section for such period as the Court thinks proper

16 No such alteration shall have any operation until registration thereof has been duly effected in accordance with the provisions of section 15, and if such registration is not effected within three months next after the date of the order of the Court confirming the alteration, or within such further time as may be allowed by the Court in accordance with the provisions of section 15, such alteration and order and all proceedings connected therewith shall, at the expiration of such period of three months or such further time, as the case may be, become absolutely null and void :

Provided the Court may, on sufficient cause shown, revive the order on application made within a further period of one month.

Articles of Associations.

17. (1) There may, in the case of a company limited by shares, and there shall, in the case of a company limited by guarantee or unlimited, be registered with the memorandum, articles of association signed by the subscribers to the memorandum and prescribing regulations for the Company.

(2) Articles of association may adopt all or any of the regulations contained in Table A in the First Schedule

(3) In the case of an unlimited company or a company limited by guarantee, the articles, if the company has a share capital, shall

state the amount of share capital with which the Company proposes to be registered.

(4) In the case of an unlimited company or a company limited by guarantee, if the company has not a share capital, the articles shall state the number of members with which the company proposes to be registered, for the purpose of enabling the registrar to determine the fees payable on registration.

18. In the case of a company limited by shares and registered after commencement of this Act, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations in Table A in the First Schedule those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

Application of Table A
Form and signature of articles.

19. Articles shall—

- (a) be printed ;
- (b) be divided into paragraphs numbered consecutively ; and
- (c) be signed by each subscriber of the memorandum of association in the presence of at least one witness who must attest the signature.

20. (1) Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles ; and any alteration or addition so made shall be as valid as if originally contained in the articles, and be subject in like manner to alteration by special resolution.

(2) The power of altering articles under this section shall, in the case of any company formed and Registered under Act No XIX. of 1857 and Act No VII of 1860 or either of them, extend to altering any provisions in Table B annexed to Act XIX of 1857, and shall also, in the case of an unlimited company formed and registered under the said Acts or either of them, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that those regulations are contained in the memorandum.

General Provisions.

21. (1) The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by each member and contained a covenant on the part of each member, his heirs, and

Effect of memorandum and articles.

legal representatives, to observe all the provisions of the memorandum and of the articles, subject to the provisions of this Act.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

22 The memorandum and the articles (if any) shall be filed with the registrar for the province in which the registered office of the company is stated by the memorandum to be situate, and he shall retain and register them.

23 (1) On the registration of the memorandum of a company, the registrar shall certify under his hand that the Company is incorporated, and in the case of a limited company that the company is limited

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

24. (1) A certificate of incorporation given by the register in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorised to be registered and duly registered under this Act

(2) A declaration by an advocate, attorney or pleader entitled to appear before a High Court who is engaged in the formation of a company, or by a person named in the articles as a director, manager or secretary of the company, of compliance with all or any of the said requirements shall be filed with the registrar, and the registrar may accept such a declaration as sufficient evidence of compliance.

25. (1) Every company shall send to every member, at his request, and on payment of one rupee or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any).

(2) If a company makes default in complying with the requirements of this section, it shall be liable for each offence to a fine not exceeding ten rupees.

Associations not for Profit.

26. (1) Where it is proved to the satisfaction of the Local Government that an association capable of being formed as a limited company has been or is about to be formed for promoting commerce, art, science, charity, or any other useful object, and applies for intends to apply its profits (if any) or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Local Government may by license under the hand of one of its Secretaries, direct that the association be registered as a company with limited liability, without the addition of the word "Limited" to its name, and the association may be registered accordingly.

(2) A license by the Local Government under this section may be granted on such conditions and subject to such regulations as the Local Government thinks fit and those conditions and regulation shall be binding on the association, and shall, if the Local Government so directs, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall on registration enjoy all the privileges of limited companies, and be subject to all their obligations, except those of using the word "Limited" as any part of its name, and of publishing its name; and of filing lists of members and directors and managers with the registrar.

(4) A license under this section may at any time be revoked by Local Government, and upon revocation the registrar shall enter the word "Limited" at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section :

Provided that, before a license is so revoked, the Local Government shall give to the association notice in writing of its intention, and shall afford the association an opportunity of submitting a representation in opposition to the revocation

Companies limited by Guarantee

27. (1) In the case of a company limited by guarantee and having a share capital, and registered after the commencement of this Act, every provision in the memorandum of articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void

(2) For the purpose of the provisions of this Act relating to the memorandum of a company limited by guarantee and of this section every provision in the memorandum or article, or in any resolution, of any company limited by guarantee and registered

after the commencement of this Act purporting to divide the undertaking of the company into shares or interests, shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

PART III.

SHARE CAPITAL, REGISTRATION OF UNLIMITED COMPANY AS LIMITED AND UNLIMITED LIABILITY OF DIRECTORS.

Distribution of Share Capital

28 (1) The shares or other interest of any member in a company shall be moveable property, transferable in manner provided by the articles of the company.

Nature of shares

(2) Each share in a company having a share capital shall be distinguished by its appropriate number.

29. A certificate, under the common seal of the company, specifying any share or stock held by any member, shall be *prima facie* evidence of the title of the member to the shares or stock therein specified

Certificate of shares or stock

30 (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

Definition of "member"

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company

31. (1) Every company shall keep in one or more books a register of its members and enter therein the following particulars—

Register of "members."

(i) the names and addresses, and the occupations, if any, of the members, and, in the case of a company having a share capital, a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member ;

(ii) the date at which each person was entered in the register as a member ;

(iii) the date at which any person ceased to be a member.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty

rupees for every day during which the default continues; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

32. (1) Every company having a share capital shall once at least in every year make a list of all persons who on the day of the first or only ordinary general meeting in the year, are members of the company, and of all persons who have ceased to be members since the date of the last return or (in the case of the first return) of the incorporation of the company

(2) The list shall state the names, addresses, and occupations of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return or (in the case of the first return) of the incorporation of the company by persons who are still members and persons who have ceased to be member respectively and the dates of registration of the transfers, and shall contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars :—

- (a) the amount of the share capital of the company, and the number of the shares into which it is divided ;
- (b) the number of shares taken from the commencement of the company up to the date of the return ,
- (c) the amount called upon each share ;
- (d) the total amount of calls received ,
- (e) the total amount of calls unpaid ;
- (f) the total amount of the sums (if any) paid by way of commission in respect of any shares or debentures, or allowed by way of discount in respect of any debentures, since the date of the last return ,
- (g) the total number of shares forfeited ,
- (h) the total amount of shares or stock for which share-warrants are outstanding at the date of the return ;
- (i) the total amount of share-warrants issued and surrendered respectively since the date of the last return ;
- (k) the number of shares or amount of stock comprised in each share-warrant ;
- (l) the names and addresses of the persons who at the date of the return are the directors of the company and of the persons (if any) who at the said date are the managers of the company : and

- (m) the total amount of debt due from the company in respect of all mortgages and charges which are required to be registered with the registrar under this Act.

(3) The above list and summary shall be contained in a separate part of the register of members, and shall be completed within seven days after the day of the first or only ordinary general meeting in the year, and the company shall forthwith file with the registrar a copy signed by a director or by the manager or the secretary of the company, together with a certificate from such director, manager or secretary that the list and summary state the facts as they stood on the day aforesaid.

(4) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

33. No notice of any trust, expressed, implied or constructive, shall be entered on the register, or be receivable by the registrar.

34. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

35. A transfer of the share or other interest of a deceased member of a company made by his legal representative shall, although the legal representative is not himself a member be as valid as if he had been a member at the time of the execution of the instrument of transfer.

36. (1) The register of members commencing from the date of the registration of the company shall be kept at the registered office of the company, and except when closed under the provision of this Act shall during business hours (subject to such reasonable restrictions, as the company in general meeting may impose, so that not less, than two hours in each day be allowed for inspection) be open to the inspection of any member gratis and the inspection of any other person on payment of one rupee or such less sum as the company may prescribe, for each inspection.

(2) Any member or other person may require a copy of the register or of any part thereof, or of the list and summary required by this Act, or any part thereof on payment of six annas for every hundred words or fractional part thereof required to be copied.

(3) If any inspection or copy required under this section is refused, the company shall be liable for each refusal to a fine not exceeding twenty rupees and to a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall be liable to the like penalty and the Court may by order compel an immediate inspection of the register.

37. A company may, on giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situate close the register of members for any time or times not exceeding in the whole thirty days in each year

Power of Court to rectify register.

38 (1) If—

(a) the name of any person is fraudulently or without sufficient cause entered in or omitted from the register of members of a company; or

(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

the person aggrieved or any member of the company, or the company may apply to the Court for rectification of the register.

(2) The Court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved and may make such order as to costs as it in its discretion thinks fit.

(3) On any application under this section the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand; and generally may decide any question necessary or expedient to be decided for rectification of the register:

Provided that the Court may direct an issue to be tried in which any question of law may be raised, and an appeal from the decision on such an issue shall lie in the manner directed by the Court of Civil Procedure, 1908,* on the grounds mentioned in section 100 of that Code.

39. In the case of a company required by this Act to file a list of its members with the registrar, the Court, when making an order for rectification of the register, shall, by its order, direct notice of the rectification to be filed with the registrar.

Notice to registrar of rectification to register.

* Act V. of 1908.

40 The register of members shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.
 Register to be evidence

41. (1) A company having a share capital may, if so authorised by its articles, cause to be kept in the United Kingdom a branch register of members (in this Act called a British register).
 Power for company to keep branch register in the United Kingdom

(2) The Company shall, within one month from the date of the opening of any British register, file with the registrar notice of the situation of the office where such register is kept and, in the event of any change in the situation of such office or of its discontinuance, shall within one month from the date of such change or discontinuance, as the case may be, file notice of such change or discontinuance

(3) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

42. (1) A British register shall be deemed to be part of the Regulations as to company's register of members (in this British register section called the principal register)

(2) It shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the advertisement before closing the register shall be inserted in some newspaper circulating in the locality wherein the British register is kept.

(3) The company shall transmit to its registered office in India a copy of every entry in its British register as soon as may be after the entry is made; and shall cause to be kept at such office duly entered up from time to time, a duplicate of its British register, and the duplicate shall for all the purposes of this Act, be deemed to be part of the principal register.

(4) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a British register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a British register shall, during the continuance of that registration, be registered in any other register.

(5) The company may discontinue to keep any British register, and thereupon all entries in that register shall be transferred to the principal register.

(6) Subject to the provisions of this Act, any company may, by its articles, make such regulations as it may think fit respecting the keeping of a British register.

43. A company limited by shares, if so authorised by its articles, may, with respect to any fully paid-up shares, or to stock, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide by coupons or otherwise for the payment of the future dividends on the shares or stock included in the warrant, in this Act termed a share-warrant.

44. A share-warrant shall entitle the bearer thereof to the shares or stock therein specified, and the shares or stock may be transferred by delivery of the warrant.

45. The bearer of the share-warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register the name of a bearer of a share-warrant in respect of the shares or stock therein specified without the warrant being surrendered and cancelled.

46. The bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles, except that he shall not be qualified in respect of the shares or stock specified in the warrant for being a director or manager of the company, in cases where such a qualification is required by the articles.

47. (1) On the issue of a share-warrant, the company shall strike out of its register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars namely.—

Entries in register
when share-warrant
issued

- (i) the fact of the issue of the warrant;
- (ii) a statement of the shares or stock included in the warrant distinguishing each share by its number; and
- (iii) the date of the issue of the warrant.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully continues or permits the default shall be liable to the like penalty.

48 Until the warrant is surrendered, the above particulars shall be deemed to be the particulars required by this Act to be entered in the register of members, and, on the surrender, the date of the surrender shall be entered as if it were the date at which a person ceased to be a member.

49 A company, if so authorised by its articles, may do any one or more of the following things, namely :—

- (1) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares,
- (2) accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him although no part of that amount has been called up,
- (3) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

50 (1) A company limited by shares, if so authorised by its articles, may alter the conditions of its memorandum as follows, (that is to say), it may—

- (a) increase its share capital by the issue of new shares of such amount as it thinks expedient ;
- (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares,
- (c) convert all or any of its paid-up shares into stock and reconvert that stock into paid-up shares of any denomination,
- (d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived,
- (e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section with respect to sub-division of shares must be exercised by special resolution

(3) Where any alteration has been made under this section in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

(4) If a company makes default in complying with the requirements of sub-section (3), it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

(5) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

51. (1) Where a company having a share capital has consolidated and divided its share capital into shares of larger amount than its existing shares or converted any of its shares into stock, or reconverted stock into shares, it shall within fifteen days of the consolidation

Notice to registrar of consolidation of share capital, conversion of shares into stock, etc.

and division, conversion or reversion, file notice with the registrar of the same, specifying the share consolidated and divided, or converted, or the stock reconverted

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

52 Where a company having a share capital has converted any of its shares into stock, and filed notice

Effect of conversion of shares into stock.

of the conversion with the registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the share capital as is converted into stock; and the register of members of the company, and the list of members to be filed with the registrar, shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares hereinbefore required by this Act.

53. (1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has in-

Notice of increase of share capital or of members

creased the number of its members beyond the registered number, it shall file with the registrar, in the case of an increase of share capital, within fifteen days after the passing, or in the case of a special resolution the confirmation of the resolution authorising the

increase, and in the case of an increase of members within fifteen days after the increase was resolved on or took place notice of the increase of capital or members, and the registrar shall record the increase.

(2) If a company makes a default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

54. (1) A company limited by shares may, by special resolution confirmed by an order of the Court, modify the conditions contained in its memorandum so as to reorganize its shares capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes :

Provided that no preference or special privilege attached to or belonging to any class of shares shall be interfered with except by resolution passed by a majority in number of shareholders of that class holding three-fourths of the share capital of that class and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed, and every resolution so passed shall bind all shareholders of the class

(2) Where an order is made under this section, a certified copy thereof shall be filed with the registrar within twenty-one days after the making of the order, or within such further time as the Court may allow, and the resolution shall not take effect until such a copy has been so filed.

Reduction of Share Capital.

55. (1) No company limited by shares shall have power to buy its own shares unless the consequent reduction of capital is effected and sanctioned in manner hereinafter provided

(2) Subject to confirmation by the Court, a company limited by shares, if so authorised by its articles, may by special resolution reduce its share capital in any way, and in particular (without prejudice to the generality of the foregoing power may—

- (a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up, or
- (b) either with or without extinguishing or reducing liability on any of its shares cancel any paid-up share capital which is lost or unrepresented by available assets ; or
- (c) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company.

and may, if and so far as is necessary alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(3) A special resolution under this section is in this Act called a resolution for reducing share capital

56 Where a company has passed and confirmed a resolution for reducing share capital, it may apply by petition to the Court for an order confirming the reduction

Application to Court for confirming order

57 On and from the confirmation by a company of a resolution for reducing share capital, or where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, then on and from the presentation of the petition for confirming the reduction, the company shall add to its name, until such date as the Court may fix, the words "and reduced" as the last words in its name, and those words shall, until that date, be deemed to be part of the name of the company.

Provided that, where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the Court may, if it thinks expedient, dispense altogether with the addition of the words "and reduced."

58 (1) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital, or the payment to any shareholder of any paid up share capital, and in any other case if the Court so directs, every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company shall be entitled to object to the reduction

Objections by creditors, and settlement of list of objecting creditors.

(2) The Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

59. Where a creditor entered on the list of creditors whose debt or claim is not discharged or determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company

Power to dispense with consent of creditor on security being given for his debt.

securing payment of his debt or claim by appropriating as the Court may direct, the following amount (that is to say), —

- (1) if the company admits the full amount of his debt or claim or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim ;
- (2) if the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like inquiry and adjudication as if the company were being wound up by the Court.

60. The Court, if satisfied, with respect to every creditor of the company who under this Act is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

61. (1) The registrar on production to him of an order of the Court confirming the reduction of the share capital of a company, and on the filing with him of a certified copy of the order and of a minute (approved by the Court) showing, with respect to the share capital of the company as altered by the order, the amount of the share capital, the number of shares into which it is to be divided and the amount of each share, and the amount (if any) at the date of the registration deemed to be paid up on each share, shall register the order and minute.

(2) On the registration, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the Court may direct.

(4) The registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

62. (1) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be valid and alterable as if it had been originally contained therein, and shall be embodied in every copy of the memorandum issued after its registration.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding ten

rupees for each copy in respect of which default is made, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

63. (1) A member of the company, past or present, shall not be liable in respect of any share to any call in respect of reduced or contribution exceeding in amount the difference (if any) between the amount paid, or (as the case may be) the reduced amount, if any, which is to be deemed to have been paid, on the share and the amount of the share as fixed by the minute :

Provided that, if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Act with respect to winding up by the Court, to pay the amount of this debt or claim, then—

(i) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt, or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before that registration, and

(ii) if the company is wound up the Court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding up.

(2) Nothing in this section shall affect the rights of the contributories among themselves.

64. If any officer of the company wilfully conceals the name of any creditor entitled to object to the reduction or wilfully misrepresents the nature or amount of the debt or claim of any creditor, or if any officer of the company abets any such concealment or misrepresentation as aforesaid, every such officer shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

65. In any case of reduction of share capital, the Court may require the company to publish as the Court directs the reasons for reduction or such other information in regard thereto as the Court may think expedient with a view to give proper informa-

tion to the public, and, if the Court thinks fit, the causes which led to the reduction.

66. A company limited by guarantee and registered after the commencement of this Act may, if it has a share capital and is so authorised by its articles, increase or reduce its share capital in the same manner and subject to the same conditions in and subject to which a company limited by shares may increase or reduce its share capital under the provisions of this Act.

Increase and reduction of share capital in case of a company limited by guarantee having a share capital.

Registration of Unlimited Company as Limited.

67. (1) Subject to the provisions of this section, any company registered as unlimited may register under this Act as limited, or any company already registered as a limited Company may re-register under this Act, but the registration of an unlimited company as a limited company shall not affect any debts, liabilities, obligations or contracts incurred or entered into by to with or on behalf of the company before the registration, and those debts, liabilities, obligations and contracts may be enforced in manner provided by Part VIII of this Act in the case of a company registered in pursuance of that Part.

Registration of unlimited company as limited.

(2) On registration in pursuance of this section, the registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company ; but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Act.

68. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things, namely :—

Power of limited company to provide for reserve share capital on registration.

(a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the amount by which its capital is so increased shall be capable of being called up except in the event and for the purposes of the company being wound up ;

(b) provided that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

69. A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

Unlimited Liability of Directors

70. (1) In a limited company the liability of the directors or of any director, may, if so provided by the memorandum, be unlimited.

Limited company may have directors with unlimited liability.

(2) In a limited company in which the liability of any director is unlimited, the directors of the company (if any) and the member who proposes a person for election or appointment to the office of director shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters and officers of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director or proposer makes default in adding such a statement, or if any promoter or officer of the company makes default in giving such a notice he shall be liable to a fine not exceeding one thousand rupees and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

71. (1) A limited company, if so authorised by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors or of any director.

Special resolution of limited company making liability of directors unlimited.

(9) Upon the confirmation of any such special resolution, the provisions thereof shall be as valid as if they had been originally contained in the memorandum and a copy thereof shall be embodied in or annexed to every copy of the memorandum issued after the confirmation of the resolution.

(3) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made : and every officer of the company who knowingly and wilfully authorises or permits the default, shall be liable to the like penalty.

PART IV.
MANAGEMENT AND ADMINISTRATION.

Office and Name.

72. (1) Every company shall have a registered office to which all communications and notices may be addressed.

(2) Notice in writing of the situation of the registered office, and of any change therein, shall be filed with the registrar who shall record the same.

(3) If a company carries on business without complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for everyday during which it so carries on business.

73. Every limited company—
Publication of name
by a limited company.

(a) shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible and in English characters, and also, if the registered office be situate in a place beyond the local limits of the ordinary original civil jurisdiction of a High Court, in the characters of one of the vernacular languages used in that place :

(b) shall have its name engraven in legible characters on its seal ;

(c) shall have its name mentioned in legible English characters in all bill-heads and letter papers and in all notices, advertisements and other official publications of the company, and in all bills of exchange, hundis, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts and letters of credit of the company.

74. (1) If a limited company does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a fine not exceeding fifty rupees for not so painting or affixing its name, and for every day during which its name is not so kept painted or affixed, and every officer of the company, who knowingly and wilfully authorises or permits the default, shall be liable to the like penalty.

(2) If any officer of a limited company, or any person on its behalf, uses or authorises the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid, or issues or authorises the issue of any bill-head, letter paper, notice, advertisement or other official publication of the company, or signs or authorises to be signed on behalf of the company any bill of exchange, hundi promissory note, endorsement, cheque or order for money or goods, or issues or authorises to be issued any bill of parcels, invoice, receipt or letter of credit of the company, wherein its name is not mentioned in manner aforesaid, he shall be liable to a fine not exceeding five hundred rupees, and shall further be personally liable to the holder of any such bill of exchange, hundi, promissory note, cheque or order for money or goods, for the amount thereof, unless the same is duly paid by the company.

75. (1) Where any notice, advertisement or other official publication of a company contains a statement of the amount of the authorised capital of the company, such notice, advertisement or other official publication shall also contain a statement in an equally prominent position and in equally conspicuous characters of the amount of the capital which has been subscribed and the amount paid up

Publication of authorised as well as subscribed and paid-up capital.

(2) Any company which makes default, in complying with the requirements of this section and every officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding one thousand rupees.

Meetings and Proceedings.

76. (1) A general meeting of every company shall be held once at the least in every year, and not more than fifteen months after the holding of the last preceding general meeting, and, if not so held, the company and every officer of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding five hundred rupees.

Annual general meeting

(2) When default has been made in holding a meeting of the company in accordance with the provisions of this section, the Court may, on the application of any member of the company, call or direct the calling of a general meeting of the company.

77. (1) Every company limited by shares and registered after the commencement of this Act shall, within a period, of six months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company which shall be called the statutory meeting.

Statutory meeting of company

(2) The directors shall at least ten days before the day on which the meeting is held, forward a report (in this Act called "the statutory report") to every member of the company and to every other person entitled under this Act to receive it.

(3) The statutory report shall be certified by not less than two directors of the company or, where there are less than two directors, by the sole director and shall state—

(a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash and stating in the case of shares partly paid up the extent to which they are so paid up and in either case the consideration for which they have been allotted ;

(b) the total amount of cash received by the company in respect of all the shares allotted distinguished as aforesaid ;

(c) an abstract of the receipts of the company whether from its share capital or from debentures, and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout and particulars concerning the balance remaining in hand and an account or estimate of the preliminary expenses of the company ;

(d) the names, addresses and descriptions of the directors auditors (if any), managers (if any) and secretary of the company ;

(e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification

(4) The statutory report shall, so far as it relates to the shares allotted by the company and to the cash received in respect of such shares and to the receipts and payments of the company on capital account, be certified as correct by the auditors (if any) of the company.

(5) The directors shall cause a copy of the statutory report, certified as by this section required, to be filed with the registrar forthwith after the sending thereof to the members of the company.

(6) Every director of the company who knowingly and wilfully authorises or permits a default in complying with the provisions of sub-section (2) or sub-section (5) shall be liable to a fine not exceeding twenty rupees for every day during which the default continues.

(7) The directors shall cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(8) The members of the company present at the meeting shall be at liberty to discuss any matters relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

(9) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(10) If a petition is presented to the Court in manner provided by Part V. for winding up the company on the ground of default in filing the statutory report or in holding the statutory meeting, the Court may, instead of directing that the Company be wound up, give directions for the statutory report to be filed or a meeting to be held, or make such other order as may be just.

(11) The provisions of this section as to the forwarding and filing of the statutory report shall not apply in the case of a private company

78. (1) Notwithstanding anything in the articles, the directors of a company which has a share capital shall, on the requisition of the holders of not less than one-tenth of the issued share capital of the company upon which all calls or other sums then due have been paid, forthwith, proceed to call an extraordinary general meeting of the company.

(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If the directors do not proceed within twenty-one days from the date of the requisition being so deposited to cause a meeting to be called, the requisitionists, or a majority of them in value may themselves call the meeting, but in either case any meeting so called shall be held within three months from the date of the deposit of the requisition.

(4) If at any such meeting a resolution requiring confirmation at another meeting is passed, the directors shall forthwith call a further extraordinary general meeting for the purpose of consider-

ing the resolution and, if thought fit, of confirming it as a special resolution and, if the directors do not call the meeting within seven days from the date of the passing of the first resolution, the requisitionists, or a majority of them in value, may themselves call the meeting

(5) Any meeting called under this section by the requisitionists shall be called in the same manner, as nearly as possible, as that in which meetings are to be called by directors

Provisions as to meetings and votes **79.** In default of, and subject to, any regulations in the articles,—

(i) a meeting of a company may be called by fourteen days' notice in writing, served on every member in manner in which notices are required to be served by Table A in the first Schedule ;

(ii) five members may call a meeting ;

(iii) any person elected by the members present at a meeting may be chairman thereof ; and

(iv) every member shall have one vote.

80. A company which is a member of another company may, by resolution of the directors, authorise any of its officials or any other person to act as its representative at any meeting of that other company, and the person so authorised shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company

81. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given

(2) A resolution shall be special resolution when it has been—

(a) passed in manner required for the passing of an extraordinary resolution , and

(b) confirmed by a majority of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a subsequent general meeting, of which notice has been duly given, and held after an interval of not less than fourteen days, not more than one month, from the date of the first meeting.

(3) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a declaration of the chairman on a show of

hands that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a poll may be demanded by three persons for the time being entitled according to the articles to vote, unless the articles of the company require a demand by such number of such persons, not in any case exceeding five, as may be specified in the articles.

(5) In a case where, if a poll is demanded, it may in accordance with the articles be taken in such manner as the chairman may direct; it may, if the chairman so directs, be taken at the meeting at which it is demanded.

(6) When a poll is demanded in accordance with this sections in computing the majority on the poll, reference shall be had to the number of votes to which each member is entitled by the articles of the company.

(7) For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by the articles.

82. (1) A copy of every special and extraordinary resolution shall, within fifteen days from the confirmation of the special resolution or from the passing of the extraordinary resolution, as the case may be, be printed or type-written and filed with the registrar who shall record the same.

(2) Where articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the date of the resolution.

(3) Where articles have not been registered, a copy of every special resolution shall be forwarded in print to any member at his request, on payment of one rupee or such less sum as the company may direct.

(4) If a company makes default in so filing with the registrar a copy of a special or extraordinary resolution, it shall be liable to a fine not exceeding twenty rupees for every day during which the default continues.

(5) If a company makes default in embodying in or annexing to a copy of its articles or in forwarding in print to a member when required by this section a copy of a special resolution, it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made.

(6) Every officer of a company who knowingly and wilfully authorises or permits any default by the company in complying with the requirements of this section shall be liable to the like penalty as is imposed by this section on the company for that default.

83. (1) Every company shall cause minutes of all proceedings of general meetings and of its directors to be entered in books kept for that purpose.

Minutes of proceedings of general meetings and of its directors to be entered in books kept for that purpose.

(2) Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Until the contrary is proved, every general meeting of the company or meeting of directors in respect of the proceedings whereof minutes have been so made shall be deemed to have been duly called and held, and all proceedings had thereat to have been duly had, and all appointments of directors or liquidators shall be deemed to be valid.

"Directors"

83 A * (1) Every company registered after the commencement of this Act shall have at least two directors

(2) This section shall not apply to a private company.

83 B * In default of and subject to any regulations in the articles of a company other than a private company—

- (i) the subscribers of the memorandum shall be deemed to be the directors of the company until the first directors shall have been appointed ;
- (ii) the directors of the company shall be appointed by the members in general meeting ; and
- (iii) any casual vacancy occurring among the directors, may be filled up by the directors, but the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last appointed a director"

84. (1) A person shall not be capable of being appointed director of a company by the articles and shall not be named as a director or proposed director of a company in any prospectus issued by or on behalf of the company or in relation

* Sections 83 A and 83 B have been inserted by Act II of 1914.

to any intended company or in any statement in lieu of prospectus filed by or on behalf of a company, unless, before the registration of the articles or the publication of the prospectus, or the filing of the statement in lieu of prospectus, as the case may be, he has, by himself or by his agent authorised in writing—

(i) signed and filed with the registrar a consent in writing to act as such director, and

(ii) save in the case of a company limited by guarantee and not having a share capital, either signed the memorandum for a number of shares not less than his qualification (if any), or signed and filed with the registrar a contract in writing to take from the company and pay for his qualification shares (if any.)

(2) On the application for registration of the memorandum and articles of a company the applicant shall file with the registrar a list of the persons who have consented to be directors of the company, and, if this list contains the name of any person who has not so consented, the applicant shall be liable to a fine not exceeding five hundred rupees

(3) This section shall not apply to a private company nor to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business.

85. (1) Without prejudice to the restrictions imposed by section 84, it shall be the duty of every director who is by the articles required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles

(2) The office of director of a company shall be vacated if the director does not, within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of such period or shorter time he ceases at any time to hold his qualification; and a person vacating office under this section shall be incapable of being reappointed director of the company until he has obtained his qualification.

(3) If, after the expiration of the said period or shorter time, any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding fifty rupees for every day between the expiration of the said period or shorter time and the last day on which it is proved that he acted as a director.

86. The acts of a director shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification: Provided that nothing in this section shall be

Validity of acts of directors.

deemed to give validity to acts done by director after the appointment of such directors has been shown to be invalid

87. (1) Every company shall keep at its registered office a register containing the names and addresses and the occupations of its directors, and file with the registrar a copy thereof, and from time to time file with the registrar notice of any change among its directors or managers.

(2) If default is made in complying with this section, the company shall be liable to a fine not exceeding fifty rupees for every day during which the default continues; and every officer of the company, who knowingly and wilfully authorises or permits the default, shall be liable to the like penalty.

Contracts

88 (1) Contracts on behalf of a company may be made as follows (that is to say) :—

(i) any contract which, if made between private persons, would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company, in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged ;

(ii) any contract which, if made between private persons, would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the company by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made according to this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto, their heirs, or legal representatives as the case may be.

89 A bill of exchange, hundi or promissory note shall be deemed to have been made, drawn, accepted or endorsed on behalf of a company if made, drawn, accepted or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority, express or implied.

90. A Company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in British India : and every deed signed by such attorney, on behalf of the company, and under his seal,

where sealing is required, shall bind the company, and have the same effect as if it were under its common seal.

91 (1) A company whose objects require or comprise the Power for company to the transaction of business beyond the limits of British India may, if authorised by its articles, have for use in any territory, district or place not situate in British India, an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district or place where it is to be used.

(2) A company having such an official seal may, by writing under its common seal, authorise any person appointed for the purpose in any territory, district or place not situate in British India to affix the same to any deed or other document to which the company is party in that territory, district or place

(3) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period (if any) mentioned in the instrument conferring the authority, or if no period is there mentioned then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him

(4) The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing the same.

(5) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company

"91A" (1) Every director who is directly or indirectly concerned or interested in any contract or arrangement entered into by or on behalf of the company shall disclose the nature of his interest at the meeting of the directors at which the contract or arrangement is determined on, if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest or the making of the contract or arrangement :

Provided that a general notice that a director is a member of any specified firm of company, and is to be regarded as interested in any subsequent transaction with such firm or company, shall as regards any such transaction be sufficient disclosure within the meaning of this sub section and after such general notice, it shall not be necessary to give any special notice relating to any particular transaction with such firm or company.

(2) Every director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding one thousand rupees.

* Sections 91A to 91D have been inserted Act 11 of 1914.

91B* (1) No director shall, as a director vote on any contract or arrangement in which he is either directly or indirectly concerned or interested, and if he does so vote, his vote shall not be counted

Prohibition of voting by interested director

Provided that the directors or any of them may vote on any contract of indemnity against any loss which they or any one or more of them may suffer by reason of becoming or being sureties or surety for the company.

(2) Every director who contravenes the provisions of sub-sections (1) shall be liable to a fine not exceeding one thousand rupees.

(3) This section shall not apply to a private company.**

91C (1) Where a company enters into a contract for the appointment of a manager of the company in which contract any director of the company is directly or indirectly concerned or interested, or varies any such existing contract, the company shall send an abstract of the terms of such contract or variation, as the case may be, together with a memorandum clearly indicating the nature of the interest of the director in such contract, or in such variation to every member; and the contract shall be open to the inspection of any member at the registered office of the company

Disclosure to members in case of contract appointing a manager

(2) If a company makes default in complying with the requirements of sub-section (1), it shall be liable to a fine not exceeding one thousand rupees; and every officer of the company who knowingly and willfully authorises or permits the default shall be liable to the like penalty.

91D (1) Every manager or other agent of a company other than a private company who enters into a contract for or on behalf of the company in which contract the company is an undisclosed principal shall, at the time of entering into the contract, make a memorandum in writing of the terms of the contract, and specify therein the person with whom it has been made.

Contracts by agents of company in which company is undisclosed principal.

(2) Every such manager or other agent shall forthwith deliver the memorandum aforesaid to the company, and such memorandum shall be filed in the office of the company and laid before the directors at the next directors meeting

(3) If any such manager or other agent makes default in complying with the requirements of this section—

* The words within quotations have been inserted by Act 42 of 1920.

- (a) the contract shall at the option of the company, be void as against the company ; and
- (b) such manager or other agent shall be liable to a fine not exceeding two hundred rupees."

Prospectus.

92. (1) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorised in writing, shall be filed for registration with the registrar on or before the date of its publication and no such prospectus shall be issued until a copy thereof has been so filed for registration.

(3) The registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section

(4) Every prospectus shall state on the face of it that a copy has been filed for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding fifty rupees for every day from the date of the issue of the prospectus until a copy thereof is so filed.

93. (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, shall state—

- (a) the contents of the memorandum, with the names, descriptions and addresses of the signatories and the number of shares subscribed for by them respectively ; and the number of founders of managements or deferred shares (if any) and the nature and extent of the interest of the holders in the property and profits of the company ; and
- (b) the number of shares (if any) fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors ; and
- (c) the names, descriptions and addresses of the directors or proposed directors and of the managers and proposed managers (if any) ; and
- (d) the minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment on each share ; and in the

case of a second or subsequent offer of shares the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount (if any) paid on the shares so allotted ; and

- (e) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or agreed to be issued ; and
- (f) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares or debentures to the vendor, and where there is more than one separate vendor or the company is a sub purchaser, the amount so payable to each vendor, Provided that where the vendors or any the of them are a firm, the members of the firm shall not be treated as separate vendors ; and
- (g) the amount (if any) paid or payable as purchase money in cash, shares or debentures, for any such property as aforesaid, specifying the amount (if any) payable for goodwill ; and
- (h) the amount (if any) paid within the two preceding years or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or the rate of any such commission : Provided that it shall not be necessary to state the commission payable to sub-under-writers ; and
- (i) the amount or estimated amount of preliminary expenses and
- (k) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment ; and
- (l) the dates of, and parties to, every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected : Provided that this requirement shall not apply to a

contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of issue of the prospectus ; and

- (m) the names and addresses of the auditors (if any) of the company ; and
- (n) full particulars of the nature and extent of the interest (if any) of every director in the promotion of or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company ; and.
- (o) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by the several classes or shares respectively,

(2) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary in the advertisement to specify the contents of the memorandum, or the signatories thereto, and the number of shares subscribed for by them

(3) This section shall not apply to a circular or notice inviting existing members or debenture holders of a company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other persons.

(4) The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors, and of managers or proposed managers, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

(5) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

94. For the purposes of section 93 every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where—

Meaning of "vendor" in section 93

- (a) the purchase-money is not fully paid at the date of issue of the prospectus ;
- (b) the purchase-money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus ; or
- (c) the contract depends for its validity or fulfilment on the result of that issue.

95. Where any of the property to be acquired by the company is to be taken on lease, section 93 shall apply as if the expression "vendor" included the lessor, and the expression "purchase-money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

Application of section 93 to the case of property taken on lease.

96. Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirements of section 93, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus shall be void.

Invalidity of certain conditions as to waiver or notice.

97. In the event of non-compliance with any of the requirements of section 93, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance, if he proves that—

Saving in certain cases of non-compliance with section 93

- (a) as regards any matter not disclosed, he was not cognisant thereof ; or
- (b) the non-compliance arose from an honest mistake of fact on his part :

Provided that, in the event of non-compliance with the requirements contained in clause (a) of sub-section (1) of section 93, no such director or other person shall incur any liability in respect of the non-compliance unless it be prove that he had knowledge of the matters not disclosed.

98. (1) A company which does not issue a prospectus on or with reference to its formation shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been filed with the registrar a statement in lieu of prospectus signed by every person

Obligations of companies where no prospectus is issued.

who is named therein as a director or a proposed director of the company or by his agent authorised in writing, in the form and containing the particulars set out in the Second Schedule.

(2) This section shall not apply to a private company or to a company which has allotted any shares or debentures before the commencement of this Act or, in so far as it relates to the allotment of shares to a company limited by guarantee and not having a share capital

99. A company shall not, at any time vary the terms of a contract referred to in the prospectus of statement in lieu of prospectus, except subject to the approval of the company in general meeting.

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.

100. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company every person who is a director of the company at the time of the issue of the prospectus, and every person who has authorised the naming of himself and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorised the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for all loss or damage they may have sustained by reason of any misleading or untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

Liability for statements in prospectus

(a) with respect to every misleading or untrue statement not purporting to be made on the authority of an expert or of a public official document or statement, that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement fairly represented the facts or was true ;

(b) with respect to every misleading or untrue statement purporting to be statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement or was a correct and fair copy of or extract from the report or valuation : Provided that the director, person named as director, promoter or person who authorised the issue of the prospectus shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe

that the person making the statement, report or valuation was competent to make it, and

- (c) with respect to every misleading or untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document,

or unless it is proved—

- (i) the having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent : or
- (ii) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent : or
- (iii) that, after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any misleading or untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.

(2) Where a company existing at the commencement of this Act has issued shares or debentures and for the purpose of obtaining further capital by subscriptions for shares or debentures issues a prospectus, a director shall not be liable in respect of any statement therein, unless he has authorised the issue of the prospectus, or has adopted or ratified it.

(3) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorised or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorised the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs and expenses to which he may be made liable by reason of his name having been inserted in the prospectus or in defending himself against any suit or legal proceedings brought against him in respect thereof

(4) Every person who, by reason of his being a director or named as a director, or as having agreed to become a director, or of his having authorised the issue of the prospectus, becomes liable to make any payment under this section, may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same pay-

ment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation :

(45) For the purposes of this section—

- (a) the expression “promoter” means a promoter who was a party to the preparation of the prospectus, or the portion thereof containing the misleading or untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company ;
- (b) the expression “expert” includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him.

Allotment.

101. (1) No allotment shall be made of any share capital of a company offered to the public for subscription, unless the following conditions have been complied with, namely :—

- (a) the amount (if any) fixed by the memorandum or articles and named in the prospectus as the minimum subscription upon which the directors may proceed to allotment ; or
- (b) if no amount is so fixed and named, then the whole amount of the share capital so offered for subscription, has been subscribed, and the sum payable on application for the amount so fixed and named or for the whole amount offered for subscription, has been paid to and received in cash by the company.

(2) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Act referred to as the minimum subscription.

(3) The amount payable on application on each share shall not be less than five per cent. of the nominal amount of the share.

(4) If the condition aforesaid have not been complied with on the expiration of the hundred and twenty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and, if any such money is not so repaid within one hundred and thirty days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of seven per cent. per annum from the expiration of the one hundred and thirtieth day : Provided that a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section, except sub-Section (3) thereof, shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription

(7) In the case of the first allotment of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless the minimum subscription (that is to say)—

(a) the amount (if any) fixed by the memorandum or articles and named in the statement in lieu of prospectus as the minimum subscription upon which the directors may proceed to allotment, or

(b) if no amount is so fixed and named, the whole amount of the share capital other than that issued or agree to be issued as fully or partly paid up otherwise than in cash ;

has been subscribed and an amount not less than five per cent. of the nominal amount of each share payable in cash has been paid to and received by the company

(8) Sub section (7) shall not apply to a private company or to a company which has allotted any shares or debentures before the commencement of this Act.

102. (1) An allotment made by a company to an applicant in contravention of the provisions of section 101 shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes or permits or authorises the contravention of any of the provisions of section 101 with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee may have sustained or incurred thereby. Provided that proceedings to recover any such loss, damages or costs shall not be commenced after the expiration of two years from the date of the allotment.

Restrictions on commencement of business

103 (1) A company shall not commence any business or exercise any borrowing powers unless—

(a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not

less in the whole than the minimum subscription ;
and

- (b) every director of the company has paid to the company on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription or, in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares on the shares payable in cash, and
- (c) there has been filed with the registrar a duly verified declaration by the secretary or one of the directors, in the prescribed form, that the aforesaid conditions have been complied with, and
- (d) in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, there has been filed with the registrar a statement in lieu of prospectus

(2) The registrar shall, on the filing of a duly verified declaration, in accordance with the provisions of this section certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled :

Provided that, in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, the registrar shall not give such a certificate unless a statement in lieu of prospectus has been filed with him.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(4) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(5) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding five hundred rupees for every day during which the contravention continues.

(6) Nothing in this section shall apply to a private company, or to a company registered before the commencement of this Act which does not issue a prospectus inviting the public to subscribe for its shares or, in so far as its provisions relate to shares, to a company limited by guarantee and not having a share capital,

104 (1) Whenever a company having a share capital makes any allotment of its shares, the company shall, within one month thereafter,—

- Return as to allotments—
- (a) file with the registrar a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and descriptions of the allottees, and the amount (if any) paid or due and payable on each share; and
 - (b) in the case of shares allotted as fully or partly paid up otherwise than in cash, produce for the inspection and examination of the registrar a contract in writing constituting the title of the allottee to the allotment together with any contract of sale or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped, and file with the registrar copies verified in the prescribed manner of all such contracts and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up and the consideration for which they have been allotted.

(2) Where such a contract as above-mentioned is not reduced to writing, the company shall, within one month after the allotment, file with the registrar the prescribed particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing and these particulars shall be deemed to be an instrument within the meaning of the Indian Stamp Act, 1899,* and the registrar may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under section 31 of that Act,

(3) If default is made in complying with the requirements of this section, every officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five hundred rupees for every day during which the default continues

Provided that, in case of default in filing with the registrar within one month after the allotment any document required to be filed by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to file the document was accidental or due to inadvertence or that on other grounds it is just and equitable to grant relief, may make an order extending the time for the filing of the document for such a period as the Court may think proper.

* Act II, of 1899.

Commissions and Discounts

105 (1) It shall be lawful for a company to pay a commission

Power to pay certain commissions and prohibition of payment of all other commissions, discounts, etc., to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, if the payment of the commission is authorised by the articles, and the commission paid or agreed to be paid does not exceed the amount or rate so authorised and if the amount or rate per cent of the commission paid or agreed to be paid is—

(a) in the case of shares offered to the public for subscription, disclosed in the prospectus, or

(b) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and filed with the registrar and, where a circular or notice, not being a prospectus inviting subscription for the shares is issued, also disclosed in that circular or notice.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring, or agreeing to procure subscriptions whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay, and a vendor to, promoter of, or other person who receives payment in money or shares from a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

106 Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sum by way of discount in respect of any debentures the total

Statement in balance-sheet as to commissions and discounts.

amount so paid or allowed or so much thereof as has not been written off, shall be stated in every

balance-sheet of the company until the whole amount thereof has been written off.

Payment of interest out of Capital.

107. Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the condition and restrictions in this section mentioned and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant.

Provided that—

- (1) no such payment shall be made unless the same is authorised by the articles or by special resolution ;
- (2) no such payment, whether authorised by the articles or by special resolution, shall be made without the previous sanction of the Local Government, which sanction shall be conclusive evidence for the purposes of this section that the shares of the company, in respect of which such sanction is given, have been issued for a purpose specified in this section ;
- (3) before sanctioning any such payment, the Local Government may, at the expense of the company, appoint a person to inquire and report to such Local Government as to the circumstances of the case, and may, before making the appointment, required the company to give security for the payment of the costs of the inquiry ,
- (4) the payment shall be made only for such period as may be determined by the Local Government ; and such period shall in no case extend beyond the close of the half-year next after the half year during which the works or buildings have been actually completed or the plant provided ;
- (5) the rate of interest shall in no case exceed four per cent. per annum or such lower rate as the Governor General in Council may, by notification in the *Gazette of India* prescribe ;
- (6) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid ;
- (7) the accounts of the company shall show the share capital on which, and the rate at which, interest has been

paid out of capital during the period to which the accounts relate ;

- (8) nothing in this section shall affect any company to which the Indian Railway Companies Act, 1895,* or the Indian Tramways Act, 1902,† applies.

Certificates of Shares, etc.

108. (1) Every company shall, within three months after the allotment of any of its shares, debentures or debenture stock, and within three months after the registration of the transfer of any such shares, debentures or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide.

(2) If default is made in complying with the requirements of this section, the company, and every officer of the company who is knowingly a party to the default, shall be liable to a fine not exceeding fifty rupees for every day during which the default continues

Information as to Mortgages, Charges, etc.

Certain mortgages and charges to be void if not registered,

109 Every mortgage or charge created after the commencement of this Act by a company and being either—

- (a) a mortgage or charge for the purpose of securing any issue of debentures ; or
- (b) a mortgage or charge on uncalled share capital of the company , or
- (c) a mortgage or charge on any immoveable property wherever situate, or any interest therein ; or
- (d) a mortgage or charge on any book debts of the company or
- (e) a floating charge on the undertaking or property of the company ,

shall, so far as any security on the company's property or undertaking is thereby conferred, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the mortgage or charge, together with the instrument (if any) by which the mortgage or charge is created or evidenced, or a copy thereof verified in the prescribed manner are filed with the registrar for registration in manner required by this Act within twenty one days after the date of its creation, but without

* Act X. of 1895.

† Act IV. of 1902.

prejudice to any contract or obligation for repayment of the money thereby secured, and when a mortgage or charge becomes void under this section, the money secured thereby shall immediately become payable :

Provided that—

- (i) in the case of a mortgage or charge created out of British India comprising solely property situate outside British India, twenty-one days after the date on which the instrument or copy could in due course of post, and if despatched with due diligence, have been received in British India shall be substituted for twenty-one days after the date of the creation of the mortgage or charge as the time within which the particulars and instrument or copy are to be filed with the registrar ; and
- (ii) where the mortgage or charge created in British India but comprises property outside British India, the instrument creating or purporting to create the mortgage or charge or a copy thereof verified in the prescribed manner may be filed for registration notwithstanding that further proceedings may be necessary to make the mortgage or charge valid or effectual according to the law of the country in which the property is situate ; and
- (iii) where a negotiable instrument has been given to secure the payment of any book debts of a company, the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a mortgage or charge on those book debts , and
- (iv) the holding of debentures entitling the holder to a charge on immoveable property shall not be deemed to be an interest in immoveable property.

110. Where a series of debentures containing, or given by reference to any other instrument, any charge to the benefit of which the debenture-holders of that series are entitled *pari passu* is created by a company, it shall be sufficient for the purposes of section 109 if there are filed with the registrar within twenty-one days after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series, the following particulars :—

Particulars in case of series debentures entitling holders *pari passu*—

- (a) the total amount secured by the whole series , and
- (b) the dates of the resolutions authorising the issue of the series and the date of the covering deed (if any) by which the security is created or defined ; and

(c) a general description of the property charged ; and

(d) the names of the trustees (if any) for the debenture-holders : together with the deed or a copy thereof verified in the prescribed manner containing the charge, or if there is no such deed, one of the debentures of the series, and the registrar shall, on payment of the prescribed fee, enter those particulars in the register :

Provided that, where more than one issue is made of debentures in the series, there shall be filed with the registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

111. Where any commission, allowance or discount has been paid or made either directly or indirectly by the company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be filed for registration under sections 109 and 110 shall include particulars as to the amount or rate per cent. of the commission, discount or allowance so paid or made, but an omission to do this shall not affect the validity of the debentures issued :

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this provision be treated as the issue of the debentures at a discount.

112 (1) The registrar shall kept, with respect to each company, a register in the prescribed form of all the mortgages and charges created by the company after the commencement of this Act and requiring registration, under section 109, and shall, on payment of the prescribed fee, enter in the register, with respect to every such mortgage or charge, the date of creation, the amount secured by it, short particulars of the property mortgaged or charged, and the names of the mortgagees or persons entitled to the charge.

(2) After making the entry required by sub-section (1), the registrar shall return the instrument (if any) or the verified copy thereof, as the case may be, filed in accordance with the provisions of section 109 or section 110 to the person filing the same.

(3) The registrar kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, not exceeding one rupee for each inspection.

113. The registrar shall keep a chronological index, in the prescribed form and with the prescribed particulars, of the mortgages or charges registered with him under this Act.

Index to register of mortgages and charges

114 The registrar shall give a certificate under his hand of the registration of any mortgage or charge registered in pursuance of section 109, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of sections 109 to 112 as to registration have been complied with.

Certificate of registration

115. The company shall cause a copy of every certificate of registration given under section 114, to be endorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the mortgage or charge so registered :

Endorsement of certificate of registration on debenture or certificate of debenture stock.

Provided that nothing in this section shall be construed as requiring a company to cause a certificate of registration of any mortgage or charge so given to be endorsed on any debenture or certificate of debenture stock which has been issued by the company before the mortgage or charge was created.

116 (1) It shall be the duty of the company to file with the registrar for registration the prescribed particulars of every mortgage or charge created by the company and of the issues of debentures of a series, requiring registration under section 109, but registration of any such mortgage or charge may be effected on the application of any person interested therein.

Duty of company and right of interested party as regards registration

(2) Where the registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the registrar on the registration.

117. Every company shall cause a copy of every instrument creating any mortgage or charge requiring registration under section 109, to be kept at the registered office of the company : Provided that, in the case of a series of uniform debentures, a copy of one such debenture shall be sufficient.

Copy of instrument creating mortgage or charge to be kept at registered office.

118 (1) If any person obtains an order for the appointment of a receiver of the property of a company, or appoints such a receiver under any powers contained in any instrument, he shall, within fifteen days from the date of the order or of the appointment under the powers contained in the instrument, file notice of the fact with the

Registration of appointment of receiver

registrar, and the registrar shall, on payment of the prescribed fee, enter the fact in the register of mortgages and charges.

(2) If any person makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

119 (1) Every receiver of the property of a company who has been appointed under the powers contained in any instrument, and who has taken possession, shall once in every half-year while he remains in possession, and also on ceasing to act as receiver, file with the registrar an abstract in the prescribed form of his receipts and payments during the period to which the abstract relates, and shall also on ceasing to act as receiver file with the registrar notice to that effect, and the registrar shall enter the notice in the register of mortgages and charges.

(2) Every receiver who makes default in complying with the provisions of this section shall be liable to a fine not exceeding five hundred rupees.

120. The Court, on being satisfied that the omission to register a mortgage or charge within the time required by section 109, or that the omission or mis-statement of any particular with respect to any such mortgage or charge, was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the Court just and expedient, order that the time for registration be extended, or, as the case may be, that the omission or mis-statement be rectified, and may make such order as to the costs of the application as it thinks fit.

121. The registrar may, on evidence being given to his satisfaction that the debt for which any registered mortgage or charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall if required furnish the company with a copy thereof.

122. (1) If any company makes default in filing with the registrar for registration the particulars—

- (a) of any mortgage or charge created by the company ; or
- (b) of the issues of debentures of a series,

requiring registration with the registrar under the foregoing provisions of this Act, then, unless the registration has been effected on the application of some other person, the company,

and every officer of the company or other person who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding five hundred rupees for every day during which the default continues

(2) Subject as aforesaid, if any company makes default in complying with any of the requirements of this Act as to the registration with the registrar of any mortgage or charge created by the company, the company, and every officer of the company, who knowingly and wilfully authorises or permits the default shall, without prejudice to any other liability, be liable on conviction to a fine not exceeding one thousand rupees.

(3) If any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock requiring registration with the registrar under the foregoing provisions of this Act without a copy of the certificate of registration being endorsed upon it, he shall, without prejudice to any other liability, be liable on conviction to a fine not exceeding one thousand rupees

123. (1) Every limited company shall keep a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company, giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge and (except in the case of securities to bearer) the names of the mortgagees or persons entitled thereto.

(2) If any director, manager or other officer of the company knowingly and wilfully authorises or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding five hundred rupees.

124 (1) The copies kept at the registered office of the company in pursuance of section 117 of instruments creating any mortgage or charge requiring registration under this Act with the registrar and the register of mortgages kept in pursuance of section 123, shall be open at all reasonable times to the inspection of any creditor or member of the company without fee, and the register of mortgages shall also be open to the inspection of any other person on payment of such fee, not exceeding one rupee for each inspection, as the company may prescribe.

(2) If inspection of the said copies or register is refused the company shall be liable to a fine not exceeding fifty rupees and a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall incur

the like penalty, and in addition to the above penalty, the Court may by order compel an immediate inspection of the copies or register.

125. (1) Every register of holders of debentures of a company shall, except when closed in accordance with the articles during such period or periods (not exceeding in the whole thirty days in any year) as may be specified in the articles be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection. and every such holder may require a copy of the register or any part thereof on payment of six annas for every one hundred words or fractional part thereof required to be copied.

(2) A copy of any trust-deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust-deed of the sum of one rupee or such less sum as may be prescribed by the company, or, where the trust-deed has not been printed, on payment of six annas for every one hundred words or fractional part thereof required to be copied.

(3) If inspection is refused, or a copy is refused or not forwarded, the company shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall incur the like penalty, and the Court may, by order compel an immediate inspection of the register.

Debentures and Floating Charges.

126. A condition contained in any debentures or in any deed for securing any debentures, whether Perpetual debentures issued or executed before or after the passing of this Act, shall not be invalid by reason only that thereby the debentures are made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period however long.

127. (1) Where either before or after the commencement of this Act a company has redeemed any debentures previously issued, the company, unless the articles or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do (not being an obligation enforceable only by the person to whom

the redeemed debentures were issued or his assigns) shall have power, and shall be deemed always to have had power, to keep the debentures alive for the purposes of re-issue and where a company has purported to exercise such a power the company shall have power, and shall be deemed always to have had power to re-issue the debentures either by re-issuing the same debentures or by issuing other debentures in their place, and upon such re-issue the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

(2) Where with the object of keeping debentures alive for the purpose of re issue they have, either before or after the commencement of this Act, been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a re-issue for the purposes of this section.

(3) Where a company has, either before or after the commencement of this Act, deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, whether the re-issue or issue was made before or after the commencement of this Act, shall be treated as the issue of a new debenture for the purposes of stamp-duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued.

Provided that any person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp duty or any penalty in respect thereof, unless he had notice or, but for his negligence, might have discovered, that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp-duty and penalty.

(5) Nothing in this section shall prejudice—

(a) the operation of any decree or order of a Court of competent jurisdiction pronounced or made before the twenty fifth day of February, 1910, as between the parties to the proceedings in which the decree or order was made, and any appeal from any such decree or order shall be decided as if this Act had not been passed, or

- (d) any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished, reserved to a company by its debentures or the securities for the same

Specific performance of contract to subscribe for debentures.

128 A contract with a company to take up and pay for any debentures of the company may be enforced by a decree for specific performance.

129 (1) Where

Payments of certain debts out of assets subject to floating charge in priority to claims under the charge.

either a receiver is appointed on behalf of the holders of any debentures of a company secured by a floating charge, or possession is taken by or on behalf of those debenture-holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up, the debts which in every winding up are under the provisions of Part V relating to preferential payments to be paid in priority to all other debts shall be paid forthwith out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

(2) The periods of time mentioned in the said provisions of Part V shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(3) Any payments made under this section shall be recouped, as far as may be, out of the assets of the company available for payment of general creditors.

Statements, Books and Accounts

130 Every company shall keep proper books of account in

Company to keep proper books of account

which shall be entered full, true and complete accounts of the affairs and transactions of the company.

131. (1) Every company shall, once at least in every year

Annual balance-sheet.

and at intervals of not more than fifteen months, cause the accounts of the company to be balanced and a balance sheet to be prepared.

(2) The balance sheet shall be audited by the auditor of the company as hereinafter provided, and the auditor's report shall be attached thereto, or there shall be inserted at the foot thereof a reference to the report and the report shall be read before the company in general meeting and shall be open to inspection by any member of the company.

(3) Every company other than a private company shall send a copy of such balance-sheet so audited to the registered address of every member of the company at least seven days before the meeting at which it is to be laid before the members of the company, and shall deposit a copy at the registered office of the company for the inspection of the members of the company during a period of at least seven days before that meeting

(4) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding one thousand rupees and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

132 (1) The balance-sheet shall contain a summary of the property and assets and of the capital and liabilities of the company giving such particulars as will disclose the general nature of those liabilities and assets and how the value of the fixed assets has been arrived at

(2) The balance-sheets shall be in the form marked F in the Third Schedule or as near thereto as circumstances admit.

Authentication of balance-sheet.

133. (1) Save as provided by sub-section (2) the balance-sheet shall—

(i) in the case of a banking company, be signed by the manager (if any) and, where there are more than three directors of the company, by at least three of those directors and, where there are not more than three directors, by all the directors ;

(ii) in the case of any other company, be signed by two directors or when there are less than two directors, by the sole director and by the manager (if any) of the company.

(2) When the total number of directors of the company for the time being in British India is less than the number of directors whose signatures are required by sub-section (1), then the balance-sheet shall be signed by all the directors for the time being in British India, or, if there is only one director for the time being in British India, by such director, but in such a case there shall be subjoined to the balance-sheet a statement signed by such directors or director explaining the reason for non-compliance with the provisions of sub-section (1)

(3) If any copy of a balance-sheet which has not been signed as required by this section is issued, circulated or published, the company and every officer of the company who is knowingly a party to the default shall be punishable with fine which may extend to five hundred rupees.

134. (1) After the balance-sheet has been laid before the company at the general meeting a copy thereof signed by the manager or secretary of the company shall be filed with the registrar at the same time as the copy of the annual list of members and summary prepared in accordance with the requirements of section 32

Copy of balance-sheet and auditor's report to be forwarded to the registrar

(2) If the general meeting before which a balance sheet is laid does not adopt the balance-sheet, a statement of that fact and of the reasons therefor shall be annexed to the balance-sheet and to the copy thereof required to be filed with the registrar.

(3) This section shall not apply to a private company.

(4) If a company makes default in complying with the requirements of this section, the company and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty as is provided by section 32 for a default in complying with the provisions of that section.

135. Save as otherwise provided in this Act, any member of a company shall be entitled to be furnished with copies of the balance-sheet and the auditor's report at a charge not exceeding six annas for every hundred words or fractional part thereof.

Right of member of company to copies of the balance-sheet and the auditor's report

Statement to be published by Banking and certain other Companies.

136. (1) Every company being a limited banking company or an insurance company or a deposit, provident or benefit society shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked G in the Third Schedule, or as near thereto as circumstances will admit.

Certain companies to publish statement in schedule.

(2) A copy of the statement shall be displayed and, until the display of the next following statement' kept displayed in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on.

(3) Every member and every creditor of the company shall be entitled to a copy of statement on payment of a sum not exceeding eight annas.

(4) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues ;

and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

(5) This section shall not apply to a life assurance company or provident insurance society to which the provisions of the Indian Life Assurance Companies Act, 1912, or of the Provident Insurance Societies Act, 1912 as the case may be, as to the annual statements to be made by such company or society apply with or without modifications, if the company or society complies with those provisions.

Investigation by the Registrar.

137 (1) Where the registrar, on perusal of any document Power of registrar to which a company is required to submit to call for information or him under the provisions of this Act, is of explanation. opinion that any information or explanation is necessary in order that such document may afford full particulars of the matter to which it purports to relate, he may, by a written order call on the company submitting the document to furnish in writing such information or explanation within such time as he may specify in his order.

(2) On the receipt of an order under sub-section (1), it shall be the duty of all persons who are or have been officers of the company to furnish such information or explanation to the best of their power.

(3) If any such person refuses or neglects to furnish any such information or explanation, he shall be liable to a fine not exceeding fifty rupees in respect of each offence.

(4) On receipt of such information or explanation the registrar may annex the same to the original document submitted to him ; and any additional document so annexed by the registrar shall be subject to the like provisions as to inspection and the taking of copies as the original document is subject.

(5) If such information or explanation is not furnished within the specified time, or if after perusal of such information or explanation the registrar is of opinion that the document in question discloses an unsatisfactory state of affairs, or that it does not disclose a full and fair statement of the matters to which it purports to relate, the registrar shall report in writing the circumstances of the case to the Local Government.

Inspection and Audit.

138. The Local Government may appoint one or more competent inspectors to investigate the affairs of any company and to report thereon in such manner as the Local Government may direct—

Investigation of affairs of company by inspectors. 9

- (i) in the case of a banking company having a share capital, on the application of members holding not less than one fifth of the shares issued ;
- (ii) in the case of any other company having a share capital, on the application of members holding not less than one tenth of the shares issued ;
- (iii) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members,
- (iv) in the case of any company, on a report by the registrar under section 137, sub-section (5)

139 An application by members of a company under section 138 shall be supported by such evidence as the Local Government may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in, requiring the investigation ; and the Local Government may, before appointing an inspector, require the applicants to give security for payment of the costs of the inquiry.

Application for inspection to be supported by evidence.

140. (1) It shall be the duty of all persons who are or have been officers of the company to produce to the inspectors all books and documents in their custody or power relating to the company.

Inspection of books and examination of officers.

(2) An inspector may examine on oath any such person in relation to its business, and may administer an oath accordingly.

(3) If any person refuses to produce any book or document which under this section it is his duty to produce, or to answer any question relating to the affairs of the company, he shall be liable to a fine not exceeding fifty rupees in respect of each offence.

141. (1) On the conclusion of the investigation the inspectors shall report their opinion to the Local Government, and a copy of the report shall be forwarded by the Local Government to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

Results of examination how dealt with

(2) The report shall be written or printed, as the Local Government directs.

(3) All expenses of, and incidental to, the investigation shall be defrayed by the applicants unless the Local Government directs the same to be paid by the company, which the Local Government is hereby authorised to do.

Power to company to appoint inspectors **142.** (1) A company may by special resolution appoint inspectors to investigate its affairs.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Local Government, except that, instead of reporting to the Local Government, they shall report in such manner and to such persons as the company in general meeting may direct

(3) All persons who are or have been officers of the company shall incur the like penalties in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the Local Government.

143. A copy of the report of any inspectors appointed under this Act authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

Report of inspectors to be evidence. **144.** (1) No person shall be appointed or act as an auditor of any company other than a private company unless he holds, a certificate from the Local Government entitling him to act as an auditor of companies :

Qualifications and appointment of auditors. Provided that the Governor-General in Council may, by notification in the *Gazette of India*, declare that the members of any institution or association specified in such notification shall be entitled to be appointed and to act as auditors of companies throughout British India.

(2) The Local Government shall by notification in the local official Gazette, makes rules providing for the grant of certificates entitling the holders thereof to act as auditors of companies, and may by such rules provide the conditions and restrictions on and subject to which such certificate shall be granted. The holder of such a certificate shall be entitled to act as an auditor of companies throughout British India unless such certificate restricts or limits the exercise of the right

(3) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(4) If an appointment of an auditor is not made at annual general meeting, the Local Government may, on the application of any member of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(5) The following persons : that is to say,

(i) a director or officer of the company , and

(ii) a partner of such director or officer and

(iii) in the case of a company other than a private company, any person in the employment of such director or officer,

shall not be appointed auditors of the company.

(6) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member of the company to the company not less than fourteen days before such annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to its members either by advertisement or in any other mode allowed by the articles not less than seven days before the annual general meeting ;

Provided that, if after notice of the intention to nominate an auditor has been given to the company, an annual general meeting is called for a date fourteen days or less after the notice has been given the requirements of this section as to time in respect of such a notice shall be deemed to have been satisfied, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this section, be sent or given at the same time as the notice of the annual general meeting.

(7) The first auditors of the company may be appointed by the directors before the statutory meeting, and if so appointed shall hold office until the first annual general meeting, unless previously removed by a resolution of the members of the company in general meeting, in which case such members at that meeting may appoint auditors.

(8) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues, the surviving or continuing auditor or auditors (if any) may act.

(9) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors.

145. (1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

(2) The auditors shall make a report to the members of the company on the accounts examined by them and on every balance sheet laid before the company in general meeting during their tenure of office, and the report shall state—

(a) whether, or not they have obtained all the information and explanations they have required ; and

(b) whether, in their opinion, the balance-sheet referred to in the report is drawn up in conformity with the law ; and

(c) whether such balance-sheet exhibits a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(3) In the case of a banking company, if the company has branch banks beyond the limits of India, it shall be sufficient if the auditor is allowed access to such copies of and extracts from the books and accounts of any such branch as have been transmitted to the head office of the company in British India.

146. (1) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance-sheets of the company and the reports of the auditors and other reports as is possessed by the holders of ordinary shares in the company.

Rights of preference shareholders, etc., as to receipt and inspection of reports, etc.

(2) This section shall not apply to a private company, nor to a company registered before the commencement of this Act.

Carrying on business with less than the legal minimum of members.

147. If any time the number of members of a company is reduced, in the case of a private company, below two, or in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with fewer than two members or seven members as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be sued for the same with out joinder in the suit of any other member.

Liability for carrying on business with fewer than seven or, in the case of a private company, two members.

Service and Authentication of Documents.

148. A document may be served on a company by leaving it at, or sending it by post to, the registered office of the company.

Service of documents on company.

149. A document may be served on the registrar by sending it to him by post, or delivering it to him, or by leaving it for him at his office.

Service of documents on registrar.

150. A document or proceeding requiring authentication by a company may be signed by a director, secretary or other authorised officer of the company, and need not be under its common seal.

Authentication of documents.

Tables, Forms and Rules as to prescribed matters.

151. (1) The forms in the Third Schedule or forms as near thereto as circumstances admit shall be used in all matters to which those forms refer.

Application and alteration of tables and forms and power to make rules as to prescribed matters.

(2) The Governor-General Council may alter any of the tables and forms in the First Schedule, so that he does not increase the amount of fees payable to the registrar in the said Schedule mentioned, and may alter or add to the forms in the Third Schedule.

(3) Any such table or form when altered, shall be published in the *Gazette of India* and on such publication shall have effect as if enacted in this Act, but no alteration made by the Governor-General in Council in Table A in the First Schedule shall affect any company registered before the alteration, or repeal, as respects that company, any portion of that table.

(4) In addition to the powers herein before conferred by this section, the Governor-General in Council may make rules providing for all or any matters which by this Act are to be prescribed by his authority.

(5) Every such rule shall be published in the *Gazette of India* and on such publication shall have effect as if enacted in this Act.

Arbitration and Compromise.

152. (1) A company may by written agreement refer to arbitration, in accordance with the Indian Arbitration Act, 1899,* an existing or future difference between itself and any other company or person.

Power for companies to refer matters to arbitration.

* Act IX of 1899.

(2) Companies, parties to the arbitration, may delegate to the arbitrator power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.

(3) The provisions of the Indian Arbitration Act, 1899,* other than those restricting the application of the Act in respect of the subject matter of the arbitration, shall apply to all arbitrations between companies and persons in pursuance of this Act.

153. (1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them or between the company and its members or any class of them, the Court may, on the application in a summary way of the company or of any creditor or member of the company or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be called, held and conducted in such manner as the Court directs

Power to compromise with creditors and members.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all the creditors or the class of creditors, or on all the members or class of members, as the case may be, and also on the company, or in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) In this section the expression "company" means any company liable to be wound up under this Act

Conversion of private company into public company.

154. (1) A private company may, subject to anything contained in its memorandum or articles, by a special resolution and by filing with the registrar a copy of such resolution and also such a statement in lieu of prospectus as the company, if a public company, would have had to file before allotting any of its shares or debentures, together with such a duly verified declaration as the company, if a public company, would have had to file before commencing business, turn itself into a public company

Conversion of private into public company.

(2) Upon the filing of the documents mentioned in sub-section (1), the registrar shall record the change in his books relating to the company.

* Act IX. of 1899.

PART V

WINDING UP

Preliminary.

Mode of winding up **155.** (1) The winding up of a company may be either—

- (i) by the Court ; or
- (ii) voluntary ; or
- (iii) subject to the supervision of the Court.

(2) The provisions of this Act with respect to winding up apply unless the contrary appears, to the winding up of a company in any of these modes.

Contributories.

156. (1) In the event of a company being wound up, every Liability as contributory of present and past members shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, with the qualification following (that is to say) :—

- (i) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up ;
- (ii) a past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member ;
- (iii) a past member shall not be liable to contribute unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act ;
- (iv) in the case of a company limited by shares, no contribution shall be required from any member exceeding the amount (if any) unpaid on the shares in respect to which he is liable as a present or past member ;
- (v) in the case of a company limited by guarantee, no contribution shall be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up ;
- (vi) nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract

whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract

(vi) a sum due to any member of a company in his character of a member, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the company payable to that member in a case of competition between himself and any other creditor not a member of the company, but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves

(2) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

157. In the winding up of a limited company any director whether past or present, whose liability is, in pursuance of this Act, unlimited, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company :

Liability of directors whose liability is unlimited

Provided that—

(i) a past director shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up :

(ii) a past director shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office ,

(iii) subject to the articles a director shall not be liable to make such further contribution unless the Court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding up.

158 The term "contributory" means every person liable to contribute to the assets of a company in the events of its being wound up, and, in all proceedings for determining and in all proceedings prior to the final determination of the persons who are to be deemed contributories, includes any person alleged to be a contributory,

Meaning of "contributory."

159 (1) The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability,

Nature of liability of contributory

(2) No claim founded on the liability of a contributory shall be cognizable by any Court of Small Causes siting outside the Presidency towns

160 (1) If a contributory dies either before or after he has been placed on the list of contributories, his legal representatives and his heirs shall be liable in a due course of administration to the contribute to the assets of the company in discharge of his liability and shall be contributories accordingly.

Contributories in case of death of member

(2) If the legal representatives of heirs make default in paying any money ordered to be paid by them, proceedings may be taken for administering the property of the deceased contributory, whether moveable or immoveable, or both, and of compelling payment thereof of the money due

Contributories in case of insolvency of member

161. If a contributory is adjudged insolvent either before or after he has been placed on the list of contributories then —

(1) his assignees shall represent him for all the purposes of the winding up, and shall be contributories accordingly, and may be called on to admit to proof against the estate of the insolvent, or otherwise to allow to be paid out of his assets in due course of law any money due from the insolvent in respect of his liability to contribute to the assets of the company ; and

(2) there may be proved against the estate of the insolvent the the estimated value of his liability to future calls as well as calls already made

Winding up by Court.

Circumstances in which company may be wound up by Court

162. A company may be wound up by the Court—

- (i) if the company has by special resolution resolved that the company be wound up by the Court ;
- (ii) if default is made in filing the statutory report or in holding the statutory meeting ;
- (iii) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year ;

- (iv) if the number of members is reduced in the case of a private company below two or in the case of any other company below seven ,
- (v) if the company is unable to pay its debts.
- (vi) if the Court is of opinion that it is just and equitable that the company should be wound up.

163 A company shall be deemed to be unable to pay its debts.
 Company when deemed unable to pay its debts.

- (i) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding five hundred rupees then due, has served on the company, by leaving the same at its registered office, a demand under his hand requiring the company to pay the sum so due and the company has for three weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor , or
- (ii) if execution or other process issued on a decree or order of any Court in favour of a creditor of the company is returned unsatisfied in whole or in part , or
- (iii) if it is proved to the satisfaction of the Court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company.

164 Where the High Court makes an order for winding up a company under this Act, it may, if it thinks fit, direct all subsequent proceedings to be had in a District Court, and thereupon such District Court shall for the purpose of winding up the company be deemed to be "the Court" within the meaning of this Act, and shall have, for the purposes of such winding up, all the jurisdiction and powers of the High Court.

165. If during the progress of a winding up in a District Court it is made to appear to the High Court that the same could be more conveniently prosecuted in any other District Court having jurisdiction to wind up companies the High Court may transfer the same to such other Court and thereupon the winding up shall proceed in such other District Court.

166. An application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section either by the company or by any creditor or creditors (including any contingent or prospective creditor or

creditors), contributory or contributories or by all or any of those parties together or separately ;

Provided—

- (a) a contributory shall not be entitled to present a petition for winding up a company unless—
- (i) either the number of members is reduced in the case of a private company below two, or, in the case of any other company, below seven, or
- (ii) the shares in respect of which he is a contributory or some of them either were originally allotted to him or have been held by him, and registered in his name for at least six months during the eighteen months before the commencement of the winding up or have devolved on him through the death of a former holder ;
- (b) a petition for winding up a company on the ground of default in filing the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder nor before the expiration of fourteen days after the last day on which the meeting ought to have been held ,
- (c) the Court shall not give a hearing to a petition for winding up a company by a contingent or prospective creditor until such security for costs has been given as the Court thinks reasonable and until a *prima facie* case for winding up has been established to the satisfaction of the Court.

167. An order for winding up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

168. A winding up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding up.

169. The Court may at any time after the presentation of the petition for winding up a company under this Act, and before making an order for winding up the company upon the application of the company or of any creditor or contributory of the company, restrain further proceedings in any suit or proceeding against the company upon such terms as the Court thinks fit.

170 (1) On hearing the petition the Court may dismiss it with or without costs, or adjourn the Powers of Court on hearing conditionally or unconditionally, or make any interim order or any other order that it deems just, but the Court shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets

(2) Where the petition is presented on the ground of default in filing the statutory report or in holding the statutory meeting the Court may order the costs to be paid by any persons who, in the opinion of the Court, are responsible for the default.

171. When a winding up order has been made, no suit or other legal proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose.

172. (1) On the making of a winding up order, it shall be the duty of the company forthwith to file with the registrar a copy of the order, and the petitioner in the winding up proceedings may so file a copy.

(2) On the filing of a copy of a winding up order, the registrar shall make a minute thereof in his books relating to the company and shall notify in the local official Gazette that such an order has been made

(3) Such order shall be deemed to be notice of discharge to the servants of the company, except when the business of the company is continued.

173. The Court may at any time after an order for winding, up, on the application of any creditor or contributory and on proof to the satisfaction of the Court that all proceedings in relation to the winding up ought to be stayed, make an order staying the proceedings either altogether or for a limited time, on such terms and conditions as the Court thinks fit.

174. The Court may, as to all matters relating to a winding up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Official Liquidators.

175. (1) For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the Court may impose, the Court may appoint a person or persons, to be called an official liquidator or official liquidators.

(2) The Court may make such an appointment provisionally at any time after the presentation of a petition and before the making of an order for winding up.

(3) If more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act by this Act required or authorised to be done by the official liquidator is to be done by all or any one or more of such persons.

(4) The Court may determine whether any, and what security is to be given by any official liquidator on his appointment.

(5) The acts of an official liquidator shall be valid notwithstanding any defect that may afterwards be discovered in his appointment: Provided that nothing in this sub-section shall be deemed to give validity to acts done by an official liquidator after his appointment has been shown to be invalid.

(6) A receiver shall not be appointed of assets in the hands of an official liquidator.

Resignations, removals filling up vacancies and compensation.

176 (1) Any official liquidator may resign or be removed by the Court on due cause shown.

(2) Any vacancy in the office of an official liquidator appointed by the Court shall be filled up by the Court.

(3) There shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and if more liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the Court directs.

177 The official liquidator shall be described by the style of the official liquidator of the particular company in respect of which he is appointed, and not by his individual name.

178 (1) The official liquidator shall take into his custody, or under his control, all the property, effects and actionable claims to which the company is or appears to be entitled.

Custody of company's property.

(2) If no official liquidator is appointed, or during any vacancy in such appointment, all the property of the company shall be deemed to be in the custody of the Court.

179. The official liquidator shall have power with the sanction of the Court, to do the the following things :—

Powers of official liquidator.

(a) to institute or defend any suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the company;

- (b) to carry on the business of the company so far as may be necessary for the beneficial winding up of the same ;
 - (c) to sell the immoveable and moveable property of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels ;
 - (d) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal ;
 - (e) to prove, rank and claim in the insolvency of any contributory, for any balance against his estate, and to receive dividends in the insolvency, in respect of that balance, as a separate debt due from the insolvent, and rateably with the other separate creditors ;
 - (f) to draw, accept, make and indorse any bill of exchange, hundi or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill, hundi or note had been drawn, accepted, made or indorsed by or on behalf of the company in the course of its business ;
 - (g) to raise on the security of the assets of the company any money requisite ;
 - (h) to take out, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company ; and in all such cases the money due shall, for the purpose of enabling the the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself
- Provided that nothing herein empowered shall be deemed to affect the rights, duties and privileges of any Administrator General ;
- (i) to do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

180. The Court may provide by any order that the official liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an official liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him,

Discretion of official liquidator.

181. The official liquidator may, with the sanction of the Court, appoint an advocate, attorney or pleader, entitled to appear before the Court to assist him in the performance of his duties. Provided that, where the official liquidator is an attorney, he shall not appoint his partner, unless the latter consents to act without remuneration.

182. The official liquidator of a company which is being wound up by the Court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the Court, personally or by his agent inspect any such books.

183 (1) Subject to the provisions of this Act the official liquidator of a company which is being wound up by the Court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting.

(2) The official liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, may direct, or whenever requested in writing to do so by one tenth in value of the creditors or contributories, as the case may be.

(3) The official liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising in the winding up.

(4) Subject to the provisions of this Act, the official liquidator shall use his own discretion in the administration of the assets of the company and in the distribution thereof among the creditors.

(5) If any person is aggrieved by any act or decision of the official liquidator, that person may apply to the Court and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just in the circumstances.

Ordinary powers of Court.

184. (1) As soon as may be after making a winding up order the Court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected and applied in discharge of its liabilities,

(2) In settling the list of contributories, the Court shall distinguish between person who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others,

185. The Court may, at any time after making a winding up order, require any contributory for the time being settled on the list of contributories and any trustee, receiver, banker, agent, or officer of the company to pay, deliver, surrender or transfer forthwith, or within such time as the Court directs, to the official liquidator any money property or documents in his hands to which the company is *prima facie* entitled.

Power to require delivery of property.

186 (1) The Court may, at any time after making a winding up order, make an order on any contributory for the time being settled on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

Power to order payment of debts by contributory.

(2) The Court in making such an order may, in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and may, in the case of a limited company, make to any director whose liability is unlimited or to his estate the like allowance :

Provided that in the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may, be allowed to him by way of set-off against any subsequent call.

187. (1) The Court may, at any time after making a winding up order and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the Court considers necessary to satisfy the the debts and liabilities of the company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.

Power of Court to make calls.

(2) In making the call the Court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

188 The Court may order any contributory, purchaser or other person from whom money is due to the company to pay the same into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be, or any branch thereof, respectively to the account of the official liquidator instead of to the official liquidator and any such order may be enforced in the same manner as if it has directed payment to the official liquidator

Power to order payment into bank-

189 All monies, bills, hundis, notes and other securities paid and delivered into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, or any branch thereof, respectively, in the event of a company being wound up by the Court, shall be subject in all respects to the orders of the Court.

Regulation of account with Court.

190 (1) An order made by the Court on a contributory shall (subject to any right of appeal) be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

Order on contributory conclusive evidence

(2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons, and in all proceedings whatsoever.

191. The Court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

Power to exclude creditors not proving in time

192. The Court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

Adjustment of rights of contributories

193. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges and expenses incurred in the winding up in such order of priority as the Court thinks just

Power to order costs.

194. (1) When the affairs of a company have been completely wound up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

Dissolution of company.

(2) The order shall be reported within fifteen days of the making thereof by the official liquidator to the registrar who shall make in his books a minute of the dissolution of the company

(3) If the official liquidator makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which he is in default.

Extraordinary Powers of Court.

195. (1) The Court may, after it has made a winding up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company, or supposed to be indebted to the company, or any person whom the Court deems capable of giving information concerning the trade, dealings, affairs or property of the company.

(2) The Court may examine him on oath concerning the same either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The Court may require him to produce any documents in his custody or power relating to the company, but where he claims any lien on documents produced by him, the production shall be without prejudice to that lien, and the Court shall have jurisdiction in the winding up to determine all questions relating to that lien.

(4) If any person so summoned after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, not having a lawful impediment (made known to the Court at the time of its sitting, and allowed by it), the Court may cause him to be apprehended and brought before the Court for examination.

196. (1) When an order has been made for winding up a company by the Court, and the official liquidator has applied to the Court stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company or by any director or other officer of the company in relation to the company since its formation, the Court may, after consideration of the application, direct that any person who has taken any part in the promotion or formation of the company or has been a director, manager or other officer of the company, shall attend before the Court on a day appointed by the Court for that purpose and be publicly examined as to the promotion or formation or the conduct of the business of the company or as to his conduct and dealings as director, manager or other officer thereof,

(2) The official liquidator shall take part in the examination, and for that purpose may, if specially authorised by the Court in that behalf, employ such legal assistance as may be sanctioned by the Court.

(3) Any creditor or contributory may also take part in the examination either personally or by any person entitled to appear before the Court.

(4) The Court may put such questions to the person examined as the Court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him.

(6) A person ordered to be examined under this section may at his own cost employ any person entitled to appear before the Court, who shall be at liberty to put to him such questions as the Court may deem just for the purpose of enabling him to explain or qualify any answers given by him. Provided that if he is, in the opinion of the Court, exculpated from any charges made or suggested against him, the Court may allow him such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him in civil proceedings, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(8) The Court may, if it thinks fit adjourn the examination from time to time.

(9) An examination under this section may if the Court so directs and subject to any rules in this behalf be held before any District Judge or before any officer of the High Court, being an Official Referee, Master, Registrar or Deputy Registrar and the powers of the Court under this section as to the conduct of the examination, but not as to costs, may be exercised by the person before whom the examination is held.

197. The Court, at any time either before or after making a winding up order on proof of probable cause for believing that a contributory is about to quit British India or otherwise to abscond, or to remove or conceal any of his property for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company may cause the contributory to be arrested and his books and papers and moveable property to be seized and him and them to be safely kept until such time as the Court may order.

198. Any powers by this Act conferred on the Court shall be in addition to and not in restriction of, any existing powers of instituting proceedings against any contributory or debtor of the company or the estate of any contributory or debtor for the recovery of any call or other sums.

Enforcement of and appeal from Orders.

199. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

200. Any order made by a Court for or in the course of the winding up of a company shall be enforced in any place in British India other than that in which such Court is situate by the Court that would have had jurisdiction in respect of such company if the registered office of the company had been situate at such other place and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

201. Where any order made by one Court is to be enforced by another Court a certified copy of the order so made shall be produced to the proper officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order having been made ; and thereupon the last-mentioned Court shall take the requisite steps in the matter for enforcing the order in the same manner as if it were the order of the Court enforcing the same.

202. Rehearings of, and appeals from any order or decision made or given in the matter of [the winding up of a company by the Court may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction

Voluntary winding up

203. A company may be wound up voluntarily—

- (1) when the period (if any) fixed for the duration of the company by the articles expires or the event (if any) occurs on the occurrence of which the articles provide that the company is to be dissolved and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily ;
- (2) if the company resolves by special resolution that the company be wound up voluntarily ;
- (3) if the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business and that it is advisable to wind up.

Commencement of voluntary winding up **204.** A voluntary winding up shall be deemed to commence at the time of the passing of the resolution authorising the winding up.

205. When a company is wound up voluntarily the company shall from the commencement of the winding up cease to carry on its business except so far as may be required for the beneficial winding up thereof.

Provided that the corporate state and corporate powers of the company shall notwithstanding anything to the contrary in its articles continue until it is dissolved.

206. (1) Notice of any special resolution or extraordinary resolution for winding up a company voluntarily shall be given by the company within ten days of the passing of the same by advertisement in the local official Gazette and also in some newspaper (if any) circulating in the district where the registered office of the company is situate

(2) If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to a like penalty

Consequences of voluntary winding up **207.** The following consequence shall ensue on the voluntary winding up of a company :—

- (i) the assets of the company shall be applied in satisfaction of its liabilities *pari passu* and, subject thereto, shall, unless the articles otherwise provide be distributed among the members according to their rights and interests in the company ;
- (ii) the company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them ;
- (iii) on the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof ,
- (iv) the liquidator may, without the sanction of the Court, exercise all powers by this Act given to the official liquidator in a winding up by the Court ;
- (v) the liquidator may exercise the powers of the Court under this Act of settling a list of contributories, and of making calls, and shall pay the debts of the com-

- pany, and adjust the rights of the contributories among themselves ,
- (vi) the list of contributories shall be *prima facie* evidence of the liability of the persons named therein to be contributories ,
 - (vii) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined by the company at the time of their appointment, or in default of such determination by any number not less than two ;
 - (viii) if from any cause whatever there is no liquidator acting the Court may on the application of a contributory, appoint a liquidator , and
 - (ix) the Court may, on cause shown, remove a liquidator and appoint another liquidator.

208 (1) The liquidator in a voluntary winding up shall, within twenty-one days after his appointment, file with the registrar a notice of his appointment in the form prescribed.

Notice by liquidator of his appointment

(2) If the liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

209. (1) Every liquidator appointed by a company in a voluntary winding up shall, within seven days from his appointment, send notice by post to all persons who appear to him to be creditors of the company that a meeting of the creditors of the company will be held on a date, not being less than twenty one days nor more than one month after his appointment, and at a place and hour, to be specified in the notice, and shall also advertise notice of the meeting once in the local official Gazette and once at least in some newspaper (if any) circulating in the district where the registered office or principal place of business of the company was situate.

Rights of creditors in a voluntary winding up

(2) At the meeting to be held in pursuance of the foregoing provision of this section the creditors shall determine whether an application shall be made to the Court for the appointment of any person as liquidator in the place of, or jointly with, the liquidator appointed by the company, and, if the creditors so resolve, an application may be made accordingly to the Court at any time not later than fourteen days after the date of the meeting, by any creditor appointed for the purpose at the meeting :

Provided that the Court may, by order at any time, extend the time for making an application under this sub-section for such period as the Court thinks proper.

(3) On any such application the Court may make an order either for the removal of the liquidator appointed by the company and for the appointment of some other person as liquidator or for the appointment to some other person to act as liquidator jointly with the liquidator appointed by the company, or such other order as, having regard to the interests of the creditors and contributories of the company, may seem just.

(4) The Court shall make such order as to the costs of the application as it may think fit, and, if it is of opinion that, having regard to the interests of the creditors in the liquidation, there were reasonable grounds for the application, may order the costs of the application to be paid out of the assets of the company, notwithstanding that the application is dismissed or otherwise disposed of adversely to the applicant.

210. (1) If a vacancy occurs by death resignation or otherwise in the office of liquidator appointed by the company in a voluntary winding up, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy :

(2) For that purpose a general meeting may be called by any contributory or, if there were more liquidators than one, by the continuing liquidators

(3) The meeting shall be held in manner prescribed by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the Court.

211. (1) A company about to be, or in course of being, wound up voluntarily may, by extraordinary resolution, delegate to its creditors, or to any committee of them, the power of appointing liquidators or any of them, and of supplying vacancies among the liquidators, or enter into any arrangement with respect to the powers to be exercised by the liquidators, and the manner in which they are to be exercised.

(2) Any act done by creditors in pursuance of any such delegated power shall have the same effect as if it had been done by the company.

212. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up voluntarily and its creditors shall, subject to any right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court

against it, and the Court may thereupon, as it thinks just, amend, vary or confirm the arrangement.

213. (1) Where a company is proposed to be, or is in course of being wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company (in this section called the transferee company) the liquidator of the first-mentioned company (in this section called the transferor company) may, with the sanction of a special resolution of that company conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies or other like interest in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies or other like interests, or in addition thereto, participate in the profits of, or receive any other benefit from, the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company

(3) If any member of the transferor company who did not vote in favour of the special resolution at either of the meetings held for passing and confirming the same expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the confirmation of the special resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in manner herein-after provided

(4) If the liquidator elects to purchase the member's interest, the purchase-money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for winding up the company, or for appointing liquidators ; but if an order is made within a year for winding up the company by or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

214. (1) The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration.

Made of determining
price.

(2) The provisions of the Indian Arbitration Act, 1899 * other than those restricting the application of the Act in respect of the subject-matter of the arbitration, shall apply to all arbitrations in pursuance of this section.

215. (1) Where a company is being wound up voluntarily, the liquidator or any contributory or creditor Power to apply to Court may apply to the Court to determine any question arising in the winding up, or to exercise as respects the enforcing of calls, or any other matters, all or any of the powers which the Court might exercise if the company were being wound up by the Court.

(2) The Court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial may accede wholly or partially to the application on such terms and conditions as the Court thinks fit, or may make such other order on the application as the Court thinks just.

216 (1) Where a company is being wound up voluntarily, the liquidator may, from time to time, Power of liquidator to call general meeting, summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution, or for any other purposes he may think fit

(2) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting a statement in the prescribed form containing the prescribed particulars with respect to the proceedings in and the position of the liquidation.

217. (1) In the case of every voluntary winding up, as soon as the affairs of the company are fully wound up, the liquidator shall make up and account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of ; and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement, specifying the time, place and object thereof, and published one month at least before the meeting in the manner specified in section 206.

(3) Within one week after the meeting, the liquidator shall file with the registrar a return of the holding of the meeting, and of its date, and in default of so doing, shall be liable to a fine not

exceeding fifty rupees for every day during which the default continues.

(4) The registrar on the filing of the return shall forth with register it, and, on the expiration of three months from the registration of the return, the company shall be deemed to be dissolved;

Provided that the Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under sub section (4) is made, within twenty-one days after the making of the order, to file with the registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

218. All costs, charges and expenses properly incurred in the voluntary winding up of a company including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims at the date of the winding up

219. The voluntary winding up of company shall not bar the right of any creditor or contributory to have it wound up by the Court, if the Court is of opinion, in the case of an application by a creditor, that the rights of the creditor or, in the case of an application by a contributory, that the rights of the contributories will be prejudiced by a voluntary winding up

220. Where a company is being wound up voluntarily, and an order is made for winding up by the Court, the Court may, if it thinks fit, by the same or any subsequent order, provide for the adoption of all or any of the proceedings in the voluntary winding up,

Winding up subject to supervision of Court.

221. When a company has by special or extraordinary resolution resolved to wind up voluntarily, the Court may make an order that the voluntary winding up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally on such terms and conditions as the Court thinks just.

222 A petition for the continuance of a voluntary winding up subject to the supervision of the Court shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding up by the Court.

223. The Court may, in deciding between a winding up by the Court and a winding up subject to supervision, in the appointment of liquidators, and in all other matters relating to the winding up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

224. (1) Where an order is made for a winding up subject to supervision, the Court may by the same or any subsequent order appoint any additional liquidator.

(2) A liquidator appointed by the Court under this section shall have the same powers, be subject to the same obligations and in all respects stand in the same position as if he had been appointed by the company.

(3) The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order, and fill any vacancy occasioned by the removal, or by death or resignation.

225. (1) Where an order is made for a winding up subject to supervision, the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily.

(2) Except as provided in sub section (1), and save for the purposes of section 196, any order made by the Court for a winding up subject to the supervision of the Court shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding up the company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding up the company altogether by the Court.

(3) In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the official liquidator, the expression "official liquidator" shall be deemed to mean the liquidator conducting the winding up subject to the supervision of the Court.

226. Where an order has been made for the winding up of a company subject to supervision, and an order is afterwards made for winding up by the Court, the Court may, by the last-mentioned order or by any subsequent order, appoint the voluntary liquidators or any of them, either

provisionally or permanently, and either with or without the addition of any other person, to be official liquidator in the winding up by the Court

Supplemental Provisions.

227. (1) In the case of voluntary winding up every transfer of share, except transfers made to or with the sanction of the liquidator, and every alteration in the status of the members of the company made after the commencement of the winding up shall be void.

Avoidance of transfers etc., after commencement of winding up.

(2) In the case of a winding up by or subject to the supervision of the Court, every disposition of the property (including actionable claims) of the company, and every transfer of shares, or alteration in the status of its members, made after the commencement of the winding up shall, unless the Court otherwise orders, be void.

228. In every winding up (subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law of insolvency) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or for some other reason do not bear a certain value.

Debts of all descriptions to be proved

229. In the winding up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent; and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of the section.

Application of insolvency rules in winding up of insolvent companies.

230. (1) In a winding up there shall be paid in priority to all other debts—

Preferential payments.

(a) all revenue, taxes, cesses and rates, whether payable to the Crown or to a local authority, due from the company at the date hereinafter mentioned and having become due and payable within the twelve months next before that date;

(b) all wages or salary of any clerk or servant in respect of service rendered to the company within the two

months next before the said date, not exceeding one thousand rupees for each clerk or servant ; and

- (c) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the company within the two months next before the said date,

(2) The foregoing debts shall—

- (a) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportion ; and

- (b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(3) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months next before the date of a winding up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof :

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(5) The date hereinbefore in this section referred to is—

- (v) in the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding up order ; and

- (b) in any other case, the date of the commencement of the winding up

231. (1) Any transfer, delivery of goods, payment, execution or other act relating to property which Fraudulent preference would if made or done by or against an individual be deemed in his insolvency a fraudulent preference, shall, if made or done by or against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors, and be invalid accordingly.

(2) For the purposes of this section the presentation of a petition for winding up in the case of a winding up by or subject to the supervision of the Court, and a resolution for winding up in the case of a voluntary winding up, shall be deemed to correspond with the act of insolvency in the case of an individual.

(3) Any transfer or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void.

232 (1) Where any company is being wound up by or subject to the supervision of the Court, any attachment, distress or execution put in force without leave of the Court against the estate or effects of the company after the commencement of the winding up shall be void.

(2) Nothing in this section applies to proceedings by the Government.

233. Where a company is being wound up a floating charge on the undertaking or property of the company created within three months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid except to the amount of any cash paid to the company at the time of, or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent per annum.

234 (1) The liquidator may, with the sanction of the Court when the company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the company in the case of a voluntary winding up, do the following things or any them :—

- (i) pay any classes of creditors in full ;
- (ii) make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, whereby the company may be rendered liable ;
- (iii) compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims present or future, certain or contingent subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company on such terms as may be agreed, and take any

security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) The exercise by the liquidator of the powers of this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of these powers.

235. (1) Where, in the course of winding up a company, it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager or liquidator, or any officer of the company has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator, or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the Court thinks just.

(2) The section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

(3) The Indian Limitation Act, 1908*, shall apply to an application under this section as if such application were a suit.

236. If any director, manager, officer or contributory of any company being wound up destroys, mutilates, alters or falsifies or fraudulently secretes any books, papers or securities, or makes, or is privy to the making of any false or fraudulent entry in any register book of account or document belonging to the company with intent to defraud or deceive any person, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine

237. (1) If it appears to the Court in the course of a winding up by or subject to the supervision of the Court that any past or present director, manager, officer or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the Court may, on the application of any person interested in the winding up, or of its own motion, direct the official liquidator or the liquidator (as the case may be) to prosecute for the offence, and may order the cost and expenses to be paid out of the assets of the company.

* Act IX of 1908.

(2) If it appears to the liquidator in the course of a voluntary winding up that any past or present director, manager, officer or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the liquidator, with the previous sanction of the court, may prosecute the offender, and all expenses properly incurred by him in the prosecution shall be payable out of the assets of the company in priority to all other liabilities

238. If any person, upon any examination upon oath, authorised under this Act, or in any affidavit, deposition or solemn affirmation in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Penalty for false evidence.

239. (1) Where by this Act the Court is authorised in relation to winding up to have regard to the wishes of creditors or contributories, as proved to it by any sufficient evidence, the Court may, if it thinks fit for the purpose of ascertaining those wishes direct meetings of the creditors or contributories to be called, held and conducted in such manner as the Court directs and may appoint a person to act as chairman of any such meeting and to report the result thereof to the Court.

Meetings to ascertain wishes of creditors or contributories.

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(3) In the case of contributories regard shall be had to the number of votes conferred on each contributory by the articles.

240. Where any company is being wound up, all documents of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

Documents of company to be evidence.

241. After an order for a winding up by or subject to the supervision of the Court, the Court may make such order for inspection by creditors and contributories of the company of its documents as the Court thinks just and any documents in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

Inspection of documents.

242. (1) When a company has been wound up and is about to be dissolved, the documents of the company and of the liquidators may be disposed of as follows (that is to say);—

Disposal of documents of company

(a) in the case of a winding up, by or subject to the supervision of the Court, in such way as the Court directs,

(b) in the case of a voluntary winding up, in such way as the company by extraordinary resolution directs.

(2) After three years from the dissolution of the company, no responsibility shall rest on the company or the liquidators, or any person to whom the custody of the documents has been committed, by reason of the same not being forthcoming to any person claiming to be interested therein

243. (1) Where a company has been dissolved, the Court may, at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

Power of Court to declare dissolution of company void.

(2) It shall be the duty of the person on whose application the order was made, within twenty-one days after the making of the order, to file with the registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

244 (1) Where a company is being wound up, if the winding up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, file with the registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

Information as to pending liquidations,

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor or contributory shall be deemed to be guilty of an offence under section 182 of the Indian Penal Code,* and shall be punishable accordingly on the application of the liquidator

(3) If a liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding five hundred rupees for each day during which the default continues.

(2) For the purposes of this section the presentation of a petition for winding up in the case of a winding up by or subject to the supervision of the Court, and a resolution for winding up in the case of a voluntary winding up, shall be deemed to correspond with the act of insolvency in the case of an individual.

(3) Any transfer or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void.

232. (1) Where any company is being wound up by or subject to the supervision of the Court, any attachment, distress or execution put in force without leave of the Court against the estate or effects of the company after the commencement of the winding up shall be void.

(2) Nothing in this section applies to proceedings by the Government

233. Where a company is being wound up a floating charge on the undertaking or property of the company created within three months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid except to the amount of any cash paid to the company at the time of, or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent per annum.

234 (1) The liquidator may, with the sanction of the Court when the company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the company in the case of a voluntary winding up, do the following things or any of them :—

- (i) pay any classes of creditors in full ;
- (ii) make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, whereby the company may be rendered liable ;
- (iii) compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims present or future, certain or contingent subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company on such terms as may be agreed, and take any

security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) The exercise by the liquidator of the powers of this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of these powers.

235. (1) Where, in the course of winding up a company, it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager or liquidator, or any officer of the company has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator, or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the Court thinks just.

(2) The section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

(3) The Indian Limitation Act, 1908*, shall apply to an application under this section as if such application were a suit.

236. If any director, manager, officer or contributory of any company being wound up destroys, mutilates, alters or falsifies or fraudulently secretes any books, papers or securities, or makes, or is privy to the making of any false or fraudulent entry in any register book of account or document belonging to the company with intent to defraud or deceive any person, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine.

237. (1) If it appears to the Court in the course of a winding up by or subject to the supervision of the Court that any past or present director, manager, officer or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the Court may, on the application of any person interested in the winding up, or of its own motion, direct the official liquidator or the liquidator (as the case may be) to prosecute for the offence, and may order the cost and expenses to be paid out of the assets of the company.

* Act IX of 1908.

(2) If it appears to the liquidator in the course of a voluntary winding up that any past or present director, manager, officer or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the liquidator, with the previous sanction of the court, may prosecute the offender, and all expenses properly incurred by him in the prosecution shall be payable out of the assets of the company in priority to all other liabilities.

238. If any person, upon any examination upon oath, authorised under this Act, or in any affidavit, deposition or solemn affirmation in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Penalty for false evidence

239. (1) Where by this Act the Court is authorised in relation to winding up to have regard to the wishes of creditors or contributories, as proved to it by any sufficient evidence, the Court may, if it thinks fit for the purpose of ascertaining those wishes direct meetings of the creditors or contributories to be called, held and conducted in such manner as the Court directs and may appoint a person to act as chairman of any such meeting and to report the result thereof to the Court.

Meetings to ascertain wishes of creditors or contributories.

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(3) In the case of contributories regard shall be had to the number of votes conferred on each contributory by the articles.

240 Where any company is being wound up, all documents of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

Documents of company to be evidence

241. After an order for a winding up by or subject to the supervision of the Court, the Court may make such order for inspection by creditors and contributories of the company of its documents as the Court thinks just and any documents in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

Inspection of documents.

242. (1) When a company has been wound up and is about to be dissolved, the documents of the company and of the liquidators may be disposed of as follows (that is to say);—

Disposal of documents of company

(a) in the case of a winding up, by or subject to the supervision of the Court, in such way as the Court directs ;

(b) in the case of a voluntary winding up, in such way as the company by extraordinary resolution directs.

(2) After three years from the dissolution of the company, no responsibility shall rest on the company or the liquidators, or any person to whom the custody of the documents has been committed, by reason of the same not being forthcoming to any person claiming to be interested therein

243. (1) Where a company has been dissolved, the Court may, at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

Power of Court to declare dissolution of company void.

(2) It shall be the duty of the person on whose application the order was made, within twenty-one days after the making of the order, to file with the registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

244. (1) Where a company is being wound up, if the winding up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, file with the registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

Information as to pending liquidations,

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom ; but any person untruthfully so stating himself to be a creditor or contributory shall be deemed to be guilty of an offence under section 182 of the Indian Penal Code,* and shall be punishable accordingly on the application of the liquidator

(3) If a liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding five hundred rupees for each day during which the default continues.

245. (1) Any affidavit required to be sworn under the provisions or for the purposes of this Part may be sworn in British India, or elsewhere within the dominions of his Majesty, before any Court, Judge or person lawfully authorised to take and receive affidavits, or in any part of India other than British India before any Court authorised or continued by the Governor-General in Council, or in any place outside His Majesty's dominions before any of His Majesty's Consuls or Vice Consuls.

(2) All Courts, Judges, Justices, Commissioners and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part.

Rules.

246. (2) The High Court may, from time to time, make rules consistent with this Act and with the Code of Civil Procedure, 1908,* concerning the mode of proceedings to be had for winding up a company in such Court and in the Courts subordinate there to, and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the sub-division of the shares of a company, "and shall make rules providing for all matters relating to, the winding up of companies which by this Act, are to be prescribed." †

(2) Without prejudice to the generality of the foregoing power the High Court may by such rules enable or require all or any of the powers and duties conferred and imposed on the Court by this Act, in respect of the matters following, to be exercised or performed by the official liquidator, and subject the control of the Court, that is to say, the powers and duties of the Court in respect of—

- (a) holding and conducting meetings to ascertain the wishes of creditors and contributories;
- (b) settling lists of contributories and rectifying the register of members where required, and collecting and applying the assets,
- (c) requiring delivery of property or documents to the liquidator;
- (d) making calls;
- (e) fixing a time within which debts and claims must be proved;

* Act V. of 1908.

† The words within quotations have been substituted by Act 11 of 1915.

Provided that the official liquidator shall not without the special leave of the Court rectify the register of members and shall not make any call without the special leave of the Court.

Removal of defunct Companies from Register.

247. (1) Where the registrar has reasonable cause to believe that a company is not carrying on business Registrar may strike that a company is not carrying on business defunct company of or in operation he shall sent to the company register by post a letter inquiring whether the company is carrying on business or in operation.

(2) If the registrar does not within one month of sending the letter receive any answer thereto he shall within fourteen days after the expiration of the month send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received and that, if an answer is not received to the second letter within one month from the date thereof a notice will be published in the local official Gazette with a view to striking the name of the company off the register.

(3) If the registrar either receives an answer from the company to the effect that it is not carrying on business or in operation or does not within one month after sending the second letter receive any answer, he may publish in the local official Gazette, and send to the company by post a notice that, at the expiration of three months from the date of that notice the name of the company mentioned therein will unless cause is shown to the contrary be struck off the register and the company will be dissolved.

(4) If, any case where a company is being wound up, the registrar has reasonable cause to believe either that no liquidator is acting or that the affairs of the company are fully wound up and the returns required to be made by the liquidator have not been made for a period of six consecutive months after notice by the registrar demanding the returns has been sent by post to the company or to the liquidator at his last known place of business, the registrar may publish in the local official Gazette and sent to the company a like notice as is provided in the last preceding sub-section.

(5) At the expiration of the time mentioned in the notice the registrar may unless cause to the contrary is previously shown by the company strike its name off the register and shall publish notice thereof in the local official Gazette and, on the publication in the local official Gazette of this notice the company shall be dissolved : Provided that the liability (if any) of every director and member of the company shall continue and may be enforced as if the company had not been dissolved.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the

Court, on the application of the company or member or creditor may, if satisfied that the company was at the time of the striking off carrying on business or in operation or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off, and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(7) A letter or notice under this section may be addressed to the company at its registered office, or, if no office has been registered, to the care of some director, manager or other officer of the company, or, if there is no director, manager or other officer of the company whose name and address are known to the registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

PART VI.

REGISTRATION OFFICE AND FEES.

248. (1) For the purposes of the registration of companies under this Act, there shall be offices at such places as the Local Government thinks fit, and no company shall be registered except at an office within the province in which, by the memorandum, the registered office of the company is declared to be established

(2) The Local Government may appoint such registrars and assistant registrars as it thinks necessary for the registration of companies under this Act, and may make regulations with respect to their duties.

(3) The salaries of the persons appointed under this section shall be fixed by the Local Government.

(4) The Local Government may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

(5) Any person may inspect the documents kept by the registrar on payment of such fees as may be appointed by the Local Government, not exceeding one rupee for each inspection; and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document, or any part of any other document, to be certified by the registrar on payment

for the certificate, certified copy or extract, of such fees as the Local Government may appoint, not exceeding three rupees for a certificate of incorporation, and not exceeding six annas for every hundred words or fractional part thereof required to be copied.

(6) Whenever any act is by this Act directed to be done to or by the registrar it shall, until the Local Government otherwise directs, be done to or by the existing registrar of joint-stock companies or in his absence to or by such person as the Local Government may for the time being authorise ; but, in the event of the Local Government altering the constitution of the existing registry offices or any of them, any such act shall be done to or by such officer and at such place with reference to the local situation of the registered offices of the companies to be registered as the Local Government may appoint.

249. (1) There shall be paid to the registrar in respect the several matters mentioned in Table B in the First Schedule the several fees therein specified, or such smaller fees as the Governor-General in Council may direct.

(2) All fees paid to the registrar in pursuance of this Act shall be accounted for to the Crown.

PART VII.

APPLICATION OF ACT TO COMPANIES FORMED AND REGISTERED UNDER FORMER COMPANIES ACTS.

250. In the application of this Act to existing companies, it shall apply in the same manner in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by shares, in the case of a company limited by guarantee as if the company had been formed and registered under this Act as a company limited by guarantee ; and, in the case of a company other than a limited company, as if the company had been formed and registered under this Act as an unlimited company ;

Provided that—

(1) nothing in Table A in the First Schedule shall apply to a company formed and registered under Act XIX. of 1857 and Act VII. of 1860, or either of them or

Court, on the application of the company or member or creditor may, if satisfied that the company was at the time of the striking off carrying on business or in operation or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off, and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(7) A letter or notice under this section may be addressed to the company at its registered office, or, if no office has been registered, to the care of some director, manager or other officer of the company, or, if there is no director, manager or other officer of the company whose name and address are known to the registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

PART VI.

REGISTRATION OFFICE AND FEES.

248. (1) For the purposes of the registration of companies under this Act, there shall be offices at such places as the Local Government thinks fit, and no company shall be registered except at an office within the province in which, by the memorandum, the registered office of the company is declared to be established.

(2) The Local Government may appoint such registrars and assistant registrars as it thinks necessary for the registration of companies under this Act, and may make regulations with respect to their duties.

(3) The salaries of the persons appointed under this section shall be fixed by the Local Government.

(4) The Local Government may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

(5) Any person may inspect the documents kept by the registrar on payment of such fees as may be appointed by the Local Government, not exceeding one rupee for each inspection; and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document, or any part of any other document, to be certified by the registrar on payment

for the certificate, certified copy or extract, of such fees as the Local Government may appoint, not exceeding three rupees for a certificate of incorporation, and not exceeding six annas for every hundred words or fractional part thereof required to be copied.

(6) Whenever any act is by this Act directed to be done to or by the registrar it shall, until the Local Government otherwise directs, be done to or by the existing registrar of joint-stock companies or in his absence to or by such person as the Local Government may for the time being authorise ; but, in the event of the Local Government altering the constitution of the existing registry offices or any of them, any such act shall be done to or by such officer and at such place with reference to the local situation of the registered offices of the companies to be registered as the Local Government may appoint.

249. (1) There shall be paid to the registrar in respect the several matters mentioned in Table B in the First Schedule the several fees therein specified, or such smaller fees as the Governor-General in Council may direct.

(2) All fees paid to the registrar in pursuance of this Act shall be accounted for to the Crown.

PART VII.

APPLICATION OF ACT TO COMPANIES FORMED AND REGISTERED UNDER FORMER COMPANIES ACTS

250. In the application of this Act to existing companies, it shall apply in the same manner in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by shares, in the case of a company limited by guarantee as if the company had been formed and registered under this Act as a company limited by guarantee ; and, in the case of a company other than a limited company, as if the company had been formed and registered under this Act as an unlimited company ;

Provided that—

(1) nothing in Table A in the First Schedule shall apply to a company formed and registered under Act XIX. of 1857 and Act VII. of 1860, or either of them or

under the Indian Companies Act, 1866,* or the Indian Companies Act, 1882,†

- (2) reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under Act No. XIX. of 1857 and Act No. VII. of 1860, or either of them, or under the Indian Companies Act, 1866, or the Indian Companies Act, 1882, as the case may be.

251. This Act shall apply to every company registered but not formed under Act No. XIX. of 1857 and Act No. VII. of 1860 or either of them, or under the Indian Companies Act, 1866,* or the Indian Companies Act, 1882,† in the same manner as it is hereinafter in this Act declared to apply to companies registered but not formed under this Act :

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the the said Acts or any of them.

252. A company registered under Act XIX. of 1857 and Act made of transferring Act VII. of 1860 or either of them may cause its shares to be transferred in the manner hitherto in use, or in such other manner as the company may direct.

PART VIII.

COMPANIES AUTHORISED TO REGISTER UNDER THIS ACT.

253. (1) With the exceptions and subject to the provisions mentioned and contained in this section,—

- Companies capably of being registered.
- (i) any company consisting of seven or more members, which was in existence on the first day of May eighteen hundred and eighty-two, including any company registered under Act No. XIX. of 1857 and Act No. VII. of 1860 or either of them, and,
 - (ii) any company formed after the date aforesaid, whether before or after the commencement of this Act, in pursuance of any Act of Parliament or Act of the Governor-General in Council other than this Act, or of Letters Patent, or being otherwise duly constituted according to law, and consisting of seven or more members ;

* Act X. of 1866.

† Act VI. of 1882.

may at any time register under this Act as an unlimited company or as a company limited by shares, or as a company limited by guarantee ; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up.

(2) Provided as follows :—

- (a) a company having the liability of its members limited by Act of Parliament or Act of the Governor-General in Council or by Letters Patent, and not being a joint-stock company as hereinafter defined, shall not register in pursuance of this section.
- (b) a company having the liability of its members limited by act of Parliament or Act of the Governor-General in Council or by Letters Patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee ;
- (c) a company that is not a joint-stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares ;
- (d) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed by the articles) at a general meeting summoned for the purpose ;
- (e) where a company not having the liability of its members limited by Act of Parliament or Act of the Governor-General in council or by Letters Patent is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting ;
- (f) where a company is about to register as a company limited by gurantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, and for the adjustment of the rights of the contributors among themselves such amount as may be required not exceeding a specified amount.

(3) In computing any majority under this section when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the articles,

(4) A company registered under the Indian Companies Act, 1882,* shall not be registered in pursuance of this section.

254 For the purposes of this Part as far as relates to registration of companies as companies limited by shares, a joint-stock company means a company having a permanent paid up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons; and such a company, when registered with limited liability under this Act, shall be deemed to be a company limited by shares.

255. Before the registration in pursuance of this Part of a joint stock company there shall be delivered to the registrar the following documents (that is to say) :—

Requirements for registration by joint stock companies.

- (1) a list showing the names, addresses and occupations of all persons who on a day named in the list, not being more than six clear days before the day of registration were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number ;
- (2) a copy of any Act of Parliament, Act of the Governor-General in Council, Royal Charter, Letters Patent, deed of settlement, contract of co-partnery or other instrument constituting or regulating the company ; and
- (3) if the company is intended to be registered as a limited company, a statement specifying the following particulars (that is to say) :—
 - (a) the nominal share capital of the company and the number of shares into which it is divided or the amount of stock of which it consists ;
 - (b) the number of shares taken and the amount paid on each share ;
 - (c) the name of the company, with the addition of the word "Limited" as the last word thereof ; and
 - (d) in the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.

* Act VI of 1882,

256. Before the registration in pursuance of this Part of any company not being a joint-stock company, Requirements for registration by other than joint-stock companies. there shall be delivered to the registrar—

- (1) a list showing the names, addresses and occupations of the directors of the company ; and
- (2) a copy of any Act of Parliament, Act of the Governor-General of Council, Letters Patent, deed of settlement contract of copartnership or other instrument constituting or regulating the company ; and
- (3) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.

257. The lists of members and directors and any other Authentication of statement of existing companies particulars relating to the company required to be delivered to the registrar shall be, duly verified by a declaration of any two or more directors or other principal officers of the company.

258. The registrar may require such evidence as he thinks Registrar may require necessary for the purpose of satisfying evidence as to nature of company. himself whether any company proposing to be registered is or is not a joint-stock company as hereinbefore defined

259. (1) Where a banking company, which was in existence On registration of banking company with limited liability, notice to be given to customers. on the first day of May eighteen hundred and eighty-two proposes to register as a limited company, it shall at least thirty days before so registering give notice of its intention so to register to every person who has a banking account with the company, either by delivery of the notice to him, or by posting it to him at, or delivering it at, his last known address.

(2) If the company omits to give notice required by this section then as between the company and the person for the time being interested in the account in respect of which the notice ought to have been given and so far as respects the account down to the time at which notice is given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

260. No fees shall be charged in respect of the registration in pursuance of this Part of a company (if it is not registered as a limited company), or Exemption of certain companies from payment of fees, if before its registration as a limited company, the liability of the shareholders was

limited by some Act of Parliament or Act of the Governor General in Council or by Letters Patent

261. When a company registers in pursuance of this Part with limited liability, the word "Limited" shall form and be registered as part of its name.

Addition of "Limited" to name,

262. On compliance with the requirements of this Part with respect to registration, and on payment of such fees, if any, as are payable under Table B in the First Schedule, the registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company that it is limited, and thereupon the company shall be incorporated, and shall have perpetual succession and a common seal.

Certificate of registration of existing companies.

263 All property, moveable and immoveable, including all interests and rights in, to and out of property, moveable and immoveable, and including obligations and actionable claims as may belong to or be vested in a company at the date of its registration in pursuance of this Part, shall, on registration, pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein

Vesting of property on registration.

264 The registration of a company in pursuance of this Part shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred or any contract entered into, by, to, with, or on behalf of, the company before registration.

Saving of existing liabilities.

265. All suits and other legal proceedings which at the time of the registration of a company in pursuance of this Part are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place; nevertheless execution shall not issue against the effects of any individual member of the company on any decree or order obtained in any such suit or proceeding; but, in the event of the property and effects of the company being insufficient to satisfy the decree or order, an order may be obtained for winding up the company.

Continuation of existing suits.

266. When a company is registered in pursuance of this Part—

Effect of registration under Act.

(i) all provisions contained in any Act of Parliament, Act of the Governor-General in Council, deed of settlement, contract of copartnership, Letters Patent, or other instrument constituting or regulating the company,

including in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Act, have been required to be inserted in the memorandum (were contained in a registered memorandum,) and the residue thereof were contained in registered articles ;

- (ii) all the provisions of this Act shall apply to the company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows (that is to say) :—
- (a) the regulations in Table A in the First Schedule shall not apply unless adopted by special resolution ;
 - (b) the provisions of this Act relating to the numbering of shares shall not apply to any joint-stock company whose shares are not numbered ;
 - (c) subject to the provision of this section, the company shall not have, power to alter any provision contained in any Act of Parliament or Act of the Governor-General in Council relating to the company ;
 - (d) subject to the provisions of this section, the company shall not have power, without the sanction of the Governor-General in Council, to alter any provision contained in any Letters Patent relating to the company ;
 - (e) the company shall not have power to alter any provision contained in a Royal Charter or Letters Patent with respect to the objects of the company ;
 - (f) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability : or to pay or contribute to the payment of the costs and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid ; and every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him

in respect of any such liability as aforesaid, and in the event of the death or insolvency of any contributory, the provisions of this Act with respect to the legal representatives and heirs of deceased contributories, and with reference to the assignees of insolvent contributories, shall apply ;

(iii) the provisions of this Act with respect to—

(a) the registration of an unlimited company as limited.

(b) the powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding up ,

(c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding up ;

shall apply notwithstanding any provisions contained in any Act of Parliament, Act of the Governor-General, in Council, Royal Charter, deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company ;

(iv) nothing in this section shall authorise the company to alter any such provisions contained in any deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company, as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act ;

(v) nothing in this Act shall derogate from any lawful power of altering its constitution or regulations which may by virtue of any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company, be vested in the company.

267. (1) Subject to the provisions of this section, a company registered in pursuance of this part may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement

Power to substitute memorandum and articles for deed of settlement.

(2) The provisions of this Act with respect to confirmation by the Court and registration of an alteration of the object of a company shall, so far as applicable, apply to an alteration under this section with the following modifications :—

- (a) there shall be substituted for the printed copy of the altered memorandum required to be filed with the registrar a printed copy of the substituted memorandum and articles ; and
- (b) on the registration of the alteration being certified by the registrar, the substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Act with that memorandum and those articles, and the company's deed of settlement shall cease to apply to the company.
- (3) An alteration under this section may be made either with or without any alteration of the objects of the company under this Act.
- (4) In this section the expression "deed of settlement" includes any contract of co-partnery or other instrument constituting or regulating the company, not being an Act of Parliament, an Act of the Governor-General in Council, a Royal Charter or Letters Patent.

268 The provisions of this Act with respect to staying and restraining suits and legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order shall, in the case of a company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to suits and legal proceedings against any contributory of the company.

269. Where an order has been made for winding up a company registered in pursuance of this Part, no suit or other legal proceeding shall be commenced or proceeded with against the company or any contributory of the company in respects of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose

PART IX.

WINDING UP OF UNREGISTERED COMPANIES,

270. For the purposes of this Part, the expression "un-registered company" shall not include a railway company incorporated by Act of Parliament or by an Act of the Governor-General in Council, nor a company registered under the Indian Companies Act, 1865,* or under any Act repealed thereby, or under the Companies Act, 1882,† or under this Act, but, save as

* Meaning of "unregistered company."

* Act X of 1866.

† Act VI. of 1882.

aforesaid, shall include any partnership, association or company consisting of more than seven members.

271. (1) Subject to the provisions of this Part, any unregistered company may be wound up under this Act and all the provisions of this Act with respect to winding up shall apply to an unregistered company, with the following exceptions and additions :—

Winding up of unregistered companies.

- (i) an unregistered company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding up, be deemed to be registered in the province where its principal place of business is situate or, if it has a principal place of business situate in more than one province, then in each province where it has a principal place of business ; and the principal place of business situate in that province in which proceedings are being instituted shall, for all the purposes of the winding up, be deemed to be the registered office of the company ;
- (ii) no unregistered company shall be wound up under this Act voluntarily or subject to supervision ,
- (iii) the circumstances in which an unregistered company may be wound up are as follows (that is to say) :—
 - (a) if the company is dissolved, or has ceased to carry on business or is carrying on business only for the purpose of winding up its affairs ;
 - (b) if the company is unable to pay its debts ;
 - (c) if the Court is of opinion that it is just and equitable that the company should be wound up ;
- (iv) an unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts—
 - (a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding five hundred rupees then due has served on the company, by leaving at its principal place of business, or by delivering to the secretary, or some director, manager or principal officer of the company, or by otherwise serving in such manner as the Court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor ;
 - (b) if any suit or other legal proceeding has been instituted against any member for any debt or demand due or

claimed to be due from the company or from him in his character of member, and notice in writing of the institution of the suit or other legal proceeding having been served on the company by leaving the same at its principal place of business or by delivering it to the secretary or some director, manager or principal officer of the company or by otherwise serving the same in such manner as the Court may approve or direct, the company has not within ten days after service of the notice paid, secured or compounded for the debt or demand, or procured the suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same ;

(c) if execution or other process issued on a decree or order obtained in any Court in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied ; and

(d) if it is otherwise proved to the satisfaction of the Court that the company is unable to pay its debts.

(2) Nothing in this Part shall affect the operation of any enactment which provides for any partnership, association or company being wound up, or being wound up as a company or as an unregistered company, under any enactment repealed by this Act, except that references in any such first-mentioned enactment to any such repealed enactment shall be read as references to the corresponding provision (if any) of this Act.

272. (1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory in winding up of unregistered companies. every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves, or to pay or contribute to the payment of the cost and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

(2) In the event of any contributory, dying or being adjudged insolvent, the provisions of this Act with respect to the legal representatives and heirs of deceased contributories, and to the assignees of insolvent contributories shall apply,

273. The provisions of this Act with respect to staying and restraining suit and legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order shall, in the case of an unregistered company ; where the application to stay or restrain is by a creditor, extend to suits and legal proceedings against any contributory of the company.

274. Where an order has been made for winding up an unregistered company, no suit or other legal proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

275. If an unregistered company has no power to sue and be sued in a common name, or if for any reason it appears expedient, the Court may by the winding up order, or by any subsequent order, direct that all or any part of the property, moveable and immoveable, and including all interests and rights in, to and out of property, moveable and immoveable, and including obligations and actionable claims as may belong to the company or to trustees on its behalf, is to vest in the official liquidator (by his official) name, and thereupon the property or the part thereof specified in the order (shall vest accordingly, and the official liquidator may, after giving such indemnity (if any) as the Court may direct, bring or defend in his official name any suit or other legal proceeding relating to that property, or necessary to be brought or defended for the purposes of effectually winding up the company and recovering its property.

276. The provisions of this Part with respect to unregistered companies shall be in addition to, and not in restriction of, any provisions hereinbefore in this Act contained with respect to winding up companies by the Court, and the Court or official liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Act ; but an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part.

PART X.

COMPANIES ESTABLISHED OUTSIDE BRITISH INDIA.

277. (1) Every company incorporated outside British India Requirements as to which at the commencement of this Act companies established has a place of business in British India, and outside British India every such company which after the commencement of this Act establishes such a place of business within British India shall, within six months from the commencement of this Act or within one month from the establishment of such place of business, as the case may be, file with the registrar in the province in which such place of business is situated.—

- (a) a certified copy of the charter, statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof,
- (b) the full address of the registered or principal office of the company ;
- (c) a list of the directors and managers (if any) of the company ,
- (d) the names and addresses of some one or more persons resident in British India authorised to accept on behalf of the company service of process and any notices required to be served on the company ,

and, in the event of any alteration being made in any such instrument or in such address or in the directors or managers or in the names or addresses of any such persons as aforesaid, the company shall, within the prescribed time file with the registrar a notice of the alteration

(2) Any process or notice required to be served on the company shall be sufficiently served, if addressed to any person whose name has been so filed as aforesaid and left at or sent by post to the address which has been so filed.

- (3) Every company to which this section applies shall in every year file with the registrar of the province in which the company has its principal place of business—
 - (i) in a case where by the law, for the time being in force of the country in which the company is incorporated such company is required to file with the public authority an annual balance-sheet,—a copy of that balance-sheet ; or
 - (ii) in a case where no such provision is made by the law, for the time being in force, of the country in which the company is incorporated.—such a statement in

the form of a balance sheet as such company would if it were a company formed and registered under this Act, be required to file in accordance with the provisions of this Act :

Provided that the Governor-General in Council may, by notification in the *Gazette of India* subject to such restrictions and conditions, if any, as he may therein prescribe, exempt any such company or any class of such companies from this requirement

(4) Every company to which this section applies and which uses the word "Limited" as part of its name shall—

(a) in every prospectus inviting subscriptions for its share or debentures in British India state the country in which the company is incorporated ; and

(b) conspicuously exhibit on every place where it carries on business in British India the name of the company and the country in which the company is incorporated in letters easily legible in English characters, and also if any place where it carries on business is beyond the local limits of the ordinary original civil jurisdiction of a High Court, in the characters of one of the vernacular languages used in that place ; and

(c) have the name of the company and of the country in which the company is incorporated mentioned in legible English characters in all bill heads and letter paper, and in all notices, advertisements and other official publications of the company.

(5) If any company to which this section applies fails to comply with any of the requirements of this section, the company, and every officer or agent of the company, shall be liable to a fine not exceeding five hundred rupees or, in the case of a continuing offence, fifty rupees for every day during which the default continues.

(6) For the purposes of this section—

(a) the expression "certified" means certified in the prescribed manner to be a true copy or a correct translation ;

(b) the expression "place of business" includes a share transfer or share registration office ;

(c) the expression "director" includes any person occupying the position of director, by whatever name called ; and

(d) the expression "prospectus" means any prospectus, notice, circular, advertisement or other invitation, offering to the public for subscription or purchase any shares or debentures of the company.

(7) There shall be paid to the registrar for registering any document required by this section to be filed with him a fee of five rupees or such smaller fee as may be prescribed.

PART XI.

SUPPLEMENTAL.

Legal proceedings, offences, etc.

278. (1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try Cognizance of offences any offence against this Act.

(2) If any offence which by this Act is declared to be punishable by fine only is committed by any person within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, such offence shall be punishable upon summary conviction by any Presidency Magistrate of the place at which such Court is held.

(3) Notwithstanding anything in the Code of Criminal Procedure, 1898,* every offence against this Act shall, for the purposes of the said Code, be deemed to be non cognizable.

279. The Court imposing any fine under this Act may direct that the whole or any part thereof be Applications of fines. applied in or towards payment of the costs of the proceedings or in or towards the rewarding of the person on whose information the fine is recovered

280 Where a limited company is plaintiff or petitioner in any suit or other legal proceeding, any Court having jurisdiction in the matter may, if it appears that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

281. If in any proceeding before any Court against a director of a company for negligence or breach of trust it appears to such Court that the director is or may be liable in respect of the negligence or breach of trust, but has acted honestly and reasonably, and ought fairly to be excused for the negligence or breach of trust, that Court may relieve him, either wholly or partly, from his liability on such terms as the Court may think proper.

282. Whoever in any return, report, certificate, balance-sheet or other document, required by or for the purposes of any of the provisions of this Act wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

283. If any person or persons trade or carry on business under any name or title of which "Limited" is the last word, that person or those persons shall, unless duly incorporated with limited liability, be liable to a fine not exceeding fifty rupees for every day upon which that name or title has been used.

284. The provisions of this Act with respect to winding up shall not apply to any company of which the winding up has commenced before the commencement of this Act, but every such company shall be wound up in the same manner and with the same incidents as if this Act had not been passed and, for the purposes of the winding up, the Indian Companies Act, 1882,* shall be deemed to remain in full force.

285. Every instrument of transfer of other document made before the commencement of this Act in pursuance of any enactment hereby repealed shall be of the same force as if this Act had not been passed, and for the purposes of that instrument or document the repealed enactment shall be deemed to remain in full force.

286 (1) The offices existing at the commencement of this Act for registration of joint-stock companies shall be continued as if they had been established under this Act.

(2) Registers of companies kept in any such existing offices shall respectively be deemed part of the registers of companies to be kept under this Act.

(3) The existing registrars, assistant registrar and officers in those offices shall, during the pleasure of the Local Government, hold the offices and receive the salaries hitherto held and received by them, but subject to any regulations of the Local Government with regard to the execution of their duties.

Savings for Indian Life Assurance Companies Act, 1912, and Provident Insurance Societies Act, 1912.

287. Nothing in this Act shall affect the provisions of the Indian Life Assurance Companies Act, 1912,† or of the Provident Insurance Societies Act, 1912.‡

* Act VI. of 1882.

† Act VI. of 1912.

‡ Act V. of 1912.

288. In sections 1 and 18 of Act No. XXI. of 1860 (for the registration of literary, Scientific and Charitable Societies) the words "registrar of joint-stock companies" in Act XXI. of 1860. shall be construed to mean the registrar under this Act.

289. Save as provided in sections 188 and 189, nothing in this Act shall be deemed to apply to the Banks of Bengal, Madras or Bombay, the Bank of Madras and the Bank of Bombay.

290. (1) The enactments mentioned in the Fourth Schedule are hereby repealed to the extent specified in the fourth column thereof :

Provided that the repeal shall not affect—

- (a) the incorporation of any company registered under any enactment hereby repealed ; nor
 - (b) Table B in the Schedule annexed to Act No. XIX. of 1857, or any part thereof so far as the same applies to any company existing at the commencement of this Act.
 - (c) Table A in the First Schedule annexed to the Indian Companies Act, 1882,* or any part thereof so far as the same applies to any company existing at the commencement of this Act.
- (2) All fees directed, resolutions passed and other things duly done under any enactment hereby repealed, shall be deemed to have been directed, passed or done under this Act.
- (3) The mention of particular matters in this section or in any other section of this Act shall not prejudice the general application of section 6 of the General Clauses Act, 1897,† with regard to the effect of repeals.

* Act VI. of 1882

† Act X. of 1897.

SCHEDULES.

THE FIRST SCHEDULE.

See sections 2, 17, 18, 79, 266.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Preliminary.

1. In these regulations, unless the context otherwise requires, expressions defined in the Indian Companies Act, 1913, or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; and words importing the singular shall include the plural, and *vice versa*, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

Business.

2. The directors shall have regard to the restrictions on the commencement of business imposed by section 103 of the Indian Companies Act, 1913, if, and so far as those restrictions are binding upon the company.

Shares.

3. Subject to the provisions, if any, in that behalf of the memorandum of association of the Company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such preferred, deferred or other special rights, or such restrictions, whether in regard to dividend, voting return of share capital, or otherwise, as the company may from time to time by special resolution determine.

4. If at any time the share capital is divided into different classes of shares the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class,

5. No share shall be offered to the public for subscription except upon the terms that the amount payable on application shall be at least five per cent of the nominal amount of the share ; and the directors shall as regards any allotment of shares, duly comply with such of the provisions of sections 101 and 104 of the Indian Companies Act, 1913, as may be applicable thereto.

6. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon : Provided that in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint-holders shall be sufficient delivery to all.

7. If a share certificate is defaced lost or destroyed, it may be renewed on payment of such fee if any not exceeding eight annas and on such terms if any as to evidence and indemnity as the directors think fit.

8. No part of the funds of the company shall be employed in the purchase of or in loans upon the security of, the company's shares.

Lien.

9. The company shall have a lien on every share (not being a fully-paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share and the company shall also have a lien on all shares (other than fully-paid shares) standing registered in the name of a single person, for all moneys presently payable by him or his estate to the company ; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. The company's lien, if any, on a share shall extend to all dividends payable thereon.

10. The company may sell, in such manner as the director thinks fit, any shares on which the company has a lien but no sale shall be made unless some sum in respect of which the lien exists is presently payable nor until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share or the person entitled by reason of his death or insolvency to the share.

11. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior

to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser, shall be registered as the holder of the shares and he shall not be bound to see to the application of the purchase-money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

Calls on Shares

12. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares provided that no call shall exceed one-fourth of the nominal amount of the share or be payable at less than one month from the last call, and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payments) pay to the company at the time or times so specified the amount called on his shares.

13. The joint-holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

14. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five per cent per annum from the day appointed for the payment thereof the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

15. The provisions of these regulations as to payment of interest shall apply in the case of non-payment of any sum which by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium as if the same had become payable by virtue of a call duly made and notified.

16. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

17. The directors may, if they think fit receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding without the sanction of the company in general meeting six per cent) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and transmission of shares.

18. The instrument of transfer of any share in the company shall be executed both by the transferor and transferee and the transferor shall be deemed to remain holder of the share until the

name of the transferee is entered in the register of members in respect thereof.

19. Shares in the company shall be transferred in the following from or in any usual or common form which the directors shall approve :

I, A B of , in consideration of the sum of rupees paid to me by C D of (hereinafter called 'the said transferee'), do hereby transfer to the said transferee the share [or shares] numbered in the undertaking called the Company, Limited to hold unto the said transferee his executors, administrators and assigns subject to the several conditions on which I held the same at the time of the execution thereof and I the said transferee do hereby agree to take the said share [or shares] subject to the conditions aforesaid. As witness our hands the day of

Witness to the signatures of, etc.

20. The directors may decline to register any transfer of shares, not being fully-paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognise any instrument of transfer unless—

(a) a fee not exceeding two rupees is paid to the company in respect thereof ; and

(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

21. The executors or administrators of a deceased sole holder of a share shall be the only persons recognized by the company as having any title to the share. In the case of share registered in the names of two or more holders, the survivors, or survivor or the executors or administrators of the deceased survivor, shall be the only persons recognised by the company as having any title to the share.

22. Any person becoming entitled to a share in consequence of the death or insolvency of a member shall, upon such evidence being produced as may from time to time be required by the directors, have the right, either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or insolvent person could have made ; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or insolvent person before the death or insolvency.

23. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Forfeiture of shares

24. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid together with any interest which may have accrued.

25. The notice shall name a further day (not earlier than the expiration of fourteen days, from the date of the notice) on or before which the payment required by the notice is to be made and shall state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

26. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

27. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

28. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company receive payment in full of the nominal amount of the shares.

29. A duly verified declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and that declaration, and the receipt of the company for the consideration, if any, given for the share on the sale or disposition thereof, shall constitute a good title to the share, and the person to whom the share is sold

or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase-money (if any), not shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

30. The provisions of these regulations as to forfeiture shall apply in the case of non payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of shares into stock.

31. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock, and may with the like sanction re-convert any stock into paid up shares of any denomination.

32. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit ; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

33. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

34. Such of the regulations of the company (other than those relating to share-warrants), as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stock-holder."

Share-warrants.

35. The company may issue share warrants, and accordingly the directors may in their discretion, with respect to any share which is fully paid-up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence (if any) as the directors may from time to time require as to the identity of the person signing the request, and

on receiving the certificate (if any) of the share, and the amount of the stamp-duty on the warrant and such fee as the directors may from time to time require, issue under the company's seal a warrant, duly stamped, stating that the bearer of the warrant is entitled to the shares therein specified, and may provide by coupons or otherwise for the payment of dividends or other moneys on the shares included in the warrant.

26. A share-warrant shall entitle the bearer to the shares included in it, and the shares shall be transferred by the delivery of the share-warrant and the provisions of the regulations of the company with respect to transfer and transmission of shares shall not apply thereto.

37. The bearer of a share-warrant shall, on surrender of the warrant to the company for cancellation, and on payment of such sum as the directors may from time to time prescribe, be entitled to have his name entered as a member in the register of members in respect of the shares included in the warrant.

38. The bearer of a share-warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited, the depositor shall have the same right of signing a requisition for calling a meeting of the company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiration of two clear days from the time of deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognised as depositor of the share-warrant. The company shall, on two days' written notice, return the deposited share-warrant to the depositor.

39. Subject as herein otherwise expressly provided, no person shall, as bearer of a share-warrant, sign a requisition for calling a meeting of the company, or attend, or vote or exercise any other privilege of a member at a meeting of the company, or be entitled to receive any notices from the company, but the bearer of a share-warrant shall be entitled in all other respects to the same privileges and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the company.

40. The directors may from time to time make rules as to the terms on which (if they shall think fit) a new share-warrant or coupon may be issued by way of renewal in case of defacement, loss or destruction.

Alteration of Capital.

41. The directors may, with the sanction of an extraordinary resolution of the company, increase the share capital by such sum to be divided into shares of such amount, as the resolution shall prescribe.

42. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of share capital, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

43. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original share capital.

44. The company may, by special resolution,—

- (a) consolidate and divide its share capital into shares of larger amount than its existing shares ;
- (b) by sub-division of its existing shares or any of them, divide the whole or any part of its share capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of paragraph (d) of sub-section (i) of section 50 of the Indian Companies Act, 1913 ;
- (c) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person ;
- (d) reduce its share capital in any manner and with and subject to any incident authorised, and consent required, by law.

General Meetings.

45. The statutory general meeting of the company shall be held within the period required by section 77 of the Indian Companies Act, 1913.

46. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be called by any two members in the same manner as nearly as possible as that in which meetings are to be called by the directors.

47. The above-mentioned general meetings shall be called ordinary meetings ; all other general meetings shall be called extraordinary.

48. The directors may, whenever they think fit, call an extraordinary general meeting, and extraordinary general meetings shall also be called on such requisition, or in default, may be called by such requisitionists, as provided by section, 78 of the Indian Companies Act, 1913. If at any time there are not within British India sufficient directors capable of acting to form a quorum, any director or any two members of the company may call an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be called by the directors.

Proceedings at General meeting.

49. Fourteen days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and, in case of special business, the general nature of that business, shall be given in manner herein-after mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company ; but the non-receipt of the notice by any member shall not invalidate the proceedings at any general meeting.

50. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting with the exception of sanctioning a dividend, the consideration of the accounts, balance-sheets and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

51. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business ; save as herein otherwise provided, three members personally present shall be a quorum.

52. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if called upon the requisition of members shall be dissolved, in any other case, it shall stand adjourned to the same day in the next week at the same time and place, and, if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

53. The chairman, if any of the board of directors shall preside as chairman at every general meeting of the company.

54. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

55. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place, to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

56. At any general meeting a resolution put to the vote of meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members, and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority or lost, and an entry to that effect in the book of the proceedings of the company shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

57. If a poll is duly demanded, it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

58. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

59. A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

60. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

61. In the case of joint-holders, the vote of the senior who tenders a vote, whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

62. A member of unsound mind or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

63. No member shall be entitled to vote, at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

64. On a poll votes may be given either personally or by proxy; Provided that no company shall vote by proxy as long as a resolution of its directors in accordance with the provisions of sections 80 of the Indian Companies Act, 1913, is in force.

65. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation, either under the common seal, or under the hand of an officer or attorney so authorised. No person shall act as a proxy unless either he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy, or he has been appointed to act at that meeting as proxy for a corporation.

66. The instrument appointing a proxy and the power-of-attorney or other authority (if any), under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company not less than seventy two hours before the time for holding the meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid.

67. An instrument appointing a proxy may be in the following form, or in any other form which the directors shall approve:—

Company, Limited.

"I of in the district of , being a member of the
Company, Limited, hereby appoint of as my
proxy to vote for me and on my behalf at the [ordinary or extra-
ordinary, as the case may be] general meeting of the company
to be held on the day of and at any adjournment
thereof."

Signed this

day of

Directors.

68. The number of the directors and the names of the first directors shall be determined in writing by majority of the subscribers of the memorandum of association.

69. The remuneration of the directors shall from time to time be determined by the company in general meeting

70. The qualification of a director shall be the holding of at least one share in the company, and it shall be his duty to comply with the provisions of section 85 of the Indian Companies Act, 1913.

Powers and duties of Directors

71. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not, by the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the said Act, and to such regulations being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in General meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

72. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term, and at such remuneration (whether by way of salary, or commission, or participation in profits or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors, but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the company in general meeting resolve that his tenure of the office of managing director or manager be determined.

73. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

74. The directors shall duly comply with the provisions of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force, and in particular with the provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the company or

created by it, and to keeping a register of the directors, and to sending to the registrar an annual list of members, and a summary of particulars relating thereto and notice of any consolidation or increase of share capital, or conversion of shares into stock, and copies of special resolutions and a copy of the register of directors and notifications of any changes therein.

75. The directors shall cause minutes to be made in books provided for the purpose—

- (a) of all appointments of officers made by the directors,
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) of all resolutions and proceedings at all meetings of the company, and, of the director, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose

The seal.

76. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of at least two directors and of the secretary or such other person as the directors may appoint for the purpose; and those two directors and secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualifications of Directors.

77. The office of directors shall be vacated if the director—

- (a) ceases to be a director by virtue of section, 85 of the Indian Companies Act, 1913; or
- (b) holds or any partner of his, or the firm of which he is a member, holds any other office of profit under the company except that of managing director or manager, or
- (c) is adjudged insolvent; or
- (d) is found lunatic or becomes of unsound mind; or
- (e) is concerned or participates in the profit of any contract with the company, or
- (f) is punished with imprisonment for a term exceeding six months;

Provided, however, that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with, or done any work for, the company of which

he is director ; but a director shall not vote in respect of any such contract or work, and if he does so vote, his vote shall not be counted.

Rotation of Directors.

78. At the first ordinary meeting of the company, the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year, one-third of the directors for the time being or, if their number is not three or a multiple of three, then the number nearest to one-third shall retire from office

79. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who become directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

80. A retiring director shall be eligible for re-election.

81. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.

82. If at any meeting at which an election of directors ought to take place, the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week at the same time and place, and, if at the adjourned meeting the places of the vacating directors are not filled up, the vacating directors or such of them as have not had their places filled up shall be deemed to have been re-elected at the adjourned meeting.

83. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

84. Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

85. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

86. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead, the person so appointed shall be subject to retirement at the same

time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

87. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of directors.

88. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall (when the number of directors exceeds three) be three.

89. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

90. The directors may elect a chairman of their meetings and determine the period for which he is to hold office ; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting :

91. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit ; any committee so "formed"* shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

92. A committee may elect a chairman of their meetings ; if no such chairman is elected, or if any at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

93. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and, in case of an equality of votes, the chairman shall have a second or casting vote.

94. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or, that they or any of them were

* The word within quotations has been substituted by Act 10 of 1914.

disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve.

95. The company in general meeting may declare dividends, but no dividends shall exceed the amount recommended by the directors.

96. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

97. No dividends shall be paid otherwise than out of profits.

98. Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the company, dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

99. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

100. If several persons are registered as joint-holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

101. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

102. No dividend shall bear interest against the company.

Accounts.

103. The directors shall cause true accounts to be kept—

(a) of the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place; and

(b) of the assets and liabilities of the company

104. The books of account shall be kept at the registered office of the company, or at such other place or places as the

directors think fit, and shall always be open to the inspection of the directors.

105. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the directors or by the company in general meeting.

106. Once at least in every year the directors shall lay before the company in general meeting a profit and loss account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.

107. The profit and loss account shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting, and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

108. A balance sheet shall be made out in every year and laid before the company in general meeting made up to a date not more than six months before such meeting. The balance-sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount (if any) which they propose to carry to a reserve fund.

109. A copy of the balance-sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

110. The directors shall in all respects comply with the provisions of sections 130 to 135 of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force.

Audit.

111. Auditors shall be appointed and their duties regulated in accordance with sections 144 and 145 of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force.

Notices.

112. (1) A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address in British India) to the address, if any, within British India supplied by him to the company for the giving of notices to him.

(2) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

113. If a member has no registered address in British India, and has not supplied to the company an address within British India for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company shall be deemed to be duly given to him on the day on which the advertisement appears.

114. A notice may be given by the company to the joint-holders of a share by giving the notice to the joint-holders named first in the register in respect of the share.

115. A notice may be given by the company to the persons entitled to a share in consequence of the death or insolvency of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or assignee of the insolvent or by any like description, at the address (if any) in British India supplied for the purpose by persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

116. Notice of every general meeting shall be given in some manner hereinbefore authorised to (a) every member of the company (including bearers of share-warrants) except those members who (having no registered address within British India) have not supplied to the company an address within British India for the giving of notices to them, and also to (b) every person entitled to a share in consequence of the death or insolvency of a member, who, but for his death or insolvency, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

TABLE B.

(See section 249 and 262.)

TABLE OF FEES TO BE PAID TO THE REGISTRAR.

I.—By a company having a share capital.

	RS.	A.	P.
1. For registration of a company whose nominal share capital does not exceed Rs. 20,000, a fee of ...	40	0	0
2. For registration of a company whose nominal share capital exceeds Rs. 20,000, the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital (that is to say)—			
For every 10,000 rupees of nominal share capital or part of 10,000 rupees, after the first 20,000 rupees up to 50,000 rupees ...	20	0	0
For every 10,000 rupees of nominal share capital, or part of 10,000 rupees, after the first 50,000 rupees up to 1,00,000 rupees ...	5	0	0
For every 10,000 rupees of nominal share capital or part of 10,000 rupees, after the first 1,00,000 rupees ...	1	0	0
3. For registration of any increase of share capital made after the first registration of the company, the same fees per 10,000 rupees or part of 10,000 rupees, as would have been payable if such increased share capital had formed part of the original share capital at the time of registration ;			
Provided that no company shall be liable to pay in respect of nominal share capital on registration, or afterwards, any greater amount of fees than 1,000 rupees taking into account, in the case of fees payable on an increase of share capital after registration, the fees paid on registration,			
4. For registration of any existing company, except such companies as are by this Act, exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new company.			
5. For filing any document by this Act required or authorised to be filed, other than the memorandum or the abstract required to be filed with the registrar (by a receiver or the statement required to be filed with the registrar) by the liquidator in a winding up	5	0	0

RS. A. P.

6. For making a record of any fact by this Act authorised or required to be recorded by the registrar, a fee of 5 0 0

II.—By a company not not having a share capital.

1. For registration of a company whose number of members, as stated in the articles of association, does not exceed 20 40 0 0
 2. For registration of a company whose number of members, as stated in the articles of association, exceeds 20 but does not exceed 100 . 100 0 0
 3. For registration of a company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members, of less number than 50 members, after the first 100
 4. For registration of a company in which the number of members is stated in the articles of association to be unlimited, a fee of 400 0 0
 5. For registration of any increase on the number of members made after the registration of the company, the same fees as would have been payable if such increase had been stated in the article of association at the time of registration ... 5 0 0
- Provided that no one company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the company.
6. For registration of any existing company except such companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new company,
 7. For filing any document by this Act required or authorised to be filed, other than the memorandum or the abstract required to be filed with the registrar by a receiver or the statement required to be filed with the registrar by the liquidator in a winding up 5 0 0
 8. For making a record of any fact by this Act authorised or required to be recorded by the registrar, a fee of 5 0 0
-

THE SECOND SCHEDULE—*continued.*

Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company or	Amount paid „ payable
Rate of the commission	Rate per cent
Estimated amount of preliminary expenses .	Rs
Amount paid or intended to be paid to any promoter	Name of promoter Amount Rs.
Consideration for the payment .. .	Consideration --
Dates of, and parties to every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the filing of this statement)	
Time and place at which the contracts or copies thereof may be inspected	
Names and addresses of the auditors of the company (if any).	
Full particulars of the nature and extent of of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.	
Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance-sheets or reports of the auditors or other reports.	Nature of the provisions.

(Signature of the persons abovenamed as directors or proposed directors, or of their agents authorised in writing.)

THE THIRD SCHEDULE.

FORM A.

(See section 6 and 151.)

MEMORANDUM ON ASSOCIATION OF A COMPANY
LIMITED BY SHARES.

- 1st.—The name of the company is "The Eastern Steam Packet Company, Limited."
- 2nd.—The registered office of the company will be situate in the province of Bombay.
- 3rd.—The objects for which the company is established are "the conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object."
- 4th.—The liability of the members is limited
- 5th.—The share capital of the company is two hundred thousand rupees, divided into one thousand shares of two hundred rupees each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, addresses and descriptions of subscribers.	Number of shares taken by each subscriber.
1. A. B. of, merchant	200
2. C. D., " "	25
3. E. F., " "	30
4. G. H., " "	40
5. I. J., " "	15
6. K. L., " "	5
7. M. N., " "	10
Total shares taken	325

Dated the day of

19 .

Witness to the above signatures,

X. Y., of

FORM B.

(See sections 7 and 151.)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A
COMPANY LIMITED BY GUARANTEE, AND
NOT HAVING A SHARE CAPITAL.

Memorandum of Association.

1st.—The name of the company is "The Mutual Calcutta Marine Association, Limited."

2nd.—The registered office of the company will be situate in Calcutta,

3rd.—The objects for which the company is established are "the mutual insurance of ships belonging to members of the company, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—The liability of the members is limited.

5th.—Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributors among themselves, such amount as may be required not exceeding one hundred rupees.

We, the several persons whose names and addresses are subscribed are desirous of being formed into a company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

- "1. A. B. of
- "2. C D. of
- "3. E. F. of
- "4 G. H. of
- "5 I. J of
- "6. K. L. of
- "7. M. N. of

Dated the day of

Witness to the above signatures.

X. Y., of

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING
MEMORANDUM OF ASSOCIATION.*Number of Members.*

1. The company for the purpose of registration is declared to consist of five hundred members.

2. The directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

Definition of Members.

3. Every person shall be deemed to have agreed to become a member of the company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained

General Meetings.

4. The first general meeting shall be held at such time, not being less than one month nor more than three months after the incorporation of the company and at such place as the directors may determine.

5. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs and at such place as the directors shall appoint. In default of a general meeting being so held a general meeting shall be held in the month next following and may be called by any two members in the same manner as nearly as possible as that in which meetings are to be called by the directors.

6. The above-mentioned general meetings shall be called ordinary meeting; all other general meetings shall be called extraordinary.

7. The directors may whenever they think fit and shall, on a requisition made in writing by any five or more members, call an extraordinary general meeting.

8. Any requisition made by the members must state the object of the meeting proposed be called, and must be signed by the requisitionists and deposited at the registered office of the company.

9. On receipt of the requisition the directors shall forthwith proceed to call a general meeting: if they do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists or any other five members may themselves call a meeting.

Proceedings at General Meetings.

10. Fourteen days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of the business, shall be given to the members in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the company in general meeting: but the non receipt of such a notice by any member shall not invalidate the proceedings at any general meeting.

11 All business shall be deemed special that is transacted at an extraordinary meeting and all that is transacted at an ordinary meeting with the exception of the consideration of the accounts balance-sheets and the ordinary report of the directors and auditors the election of directors and other officers in the place of those retiring by rotation, and the fixing of remuneration of the auditors.

12 No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of the business. The quorum shall be ascertained as follows (that is to say) — if the members of the company at the time of the meeting do not exceed ten in number the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members with this limitation, that no quorum shall in any case exceed ten.

13. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if called on the requisition of the members, shall be dissolved; in any other case it shall stand adjourned to the same day in the following week at the same time and place; and if at such adjourned-meeting a quorum of members is not present, it shall be adjourned *sine die*.

14. The chairman (if any) of the directors shall preside as chairman at every general meeting of the company.

15. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of that meeting.

16 The chairman may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

17. At any general meeting, unless a poll is demanded by at least three members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be conclusive evidence of the

fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution

18. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded

Votes of Members.

19. Every member shall have one vote and no more.

20. If any member is a lunatic or idiot, he may vote by his committee or other legal guardian.

21. No member shall be entitled to vote at any meeting unless all moneys due from him to the company have been paid.

22. On a poll votes may be given either personally or by proxy. Provided that no company shall vote by proxy as long as a resolution of its directors in accordance with the provisions of section 80 of the Indian Companies Act, 1913, is in force. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under its common seal.

23. (1) No person shall act as a proxy unless he is member, or unless he is appointed to act at the meeting as proxy for a corporation.

(2) The instrument appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

24. Any instrument appointing a proxy shall be in the following form :—

Company, Limited,

I, _____, of _____ being a Member of the
 _____ Company, Limited, hereby appoint _____ of _____
 _____ as my proxy, to vote for me and on my
 behalf at the [ordinary or extraordinary, as the case may be]
 general meeting of the company to be held on the _____ day of _____
 and at any adjournment thereof.

Signed this _____ day of _____

Directors.

25. The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

26. Until directors are appointed, the subscribers of the memorandum of association shall for all the purposes of the Indian Companies Act, 1913, be deemed to be directors.

Powers of Directors.

27. The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not by the Indian Companies Act, 1913, or by any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

Elections of Directors.

28. The directors shall be elected annually by the company in general meeting

Business of Company.

(Here insert rules as to mode in which business of insurance is to be conducted.)

Audit.

29. Auditors shall be appointed and their duties regulated in accordance with sections 144 and 145 of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force, and for this purpose the said sections shall have effect as if the word "members" were substituted for "shareholders," and as if "first general meeting" were substituted for "statutory meeting."

Notices.

30. A notice may be given by the company to any member either personally, or by sending it by post to him to his registered address.

31. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Names, Addresses and Descriptions of Subscribers.

- "1. A. B. of
- "2. C. D. of
- "3. E. F. of
- "4. G. H. of
- "5. I. J. of
- "6. K. L. of
- "7. M. N. of

Dated day of 19

Witness to the above signatures.

X. Y., of

FORM C.

(See sections 7 and 151)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE, AND HAVING A SHARE CAPITAL.

Memorandum of Association.

1st.—The name of the company is "The Snowy Range Hotel Company, Limited."

2nd.—The registered office of the company will be situate in the province of Bengal

3rd.—The objects for which the company is established are "the facilitating travelling in the Snowy Range, by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object,"

4th.—The liability of the members is limited.

5th.—Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding fifty rupees

6th.—The share capital of the company shall consist of five hundred thousand rupees, divided into five thousand shares of one hundred rupees each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names

Names, Addresses and Descriptions of Subscribers.	Number of shares taken by each Subscriber.
" 1. A. B. of	200
" 2. C. D. of	25
" 3. E. of	30
" 4. G. H. of	40
" 5. I. J. of	15
" 6. K. L. of	5
" 7. M. N. of	10
Total shares taken	325

Dated the *day of* 19
 Witness to the above signatures,
 X, Y, of

Articles of Association to accompany preceding Memorandum of Association.

1. The share capital of the company is five hundred thousand rupees, divided into five thousand shares of one hundred rupees each.
2. The directors may, with the sanction of the company in general meeting, reduce the amount of shares in the company.
3. The directors may, with the sanction of the company in general meeting, cancel any shares belonging to the company.
4. All the articles of Table A of the Indian Companies Act, 1913, shall be deemed to be incorporated with these articles and to apply to the company.

Names, Addresses and Descriptions of Subscribers.

- " 1 A B, of merchant.
 " 2, C. D. of
 " 3. E F of
 " 4 G H of
 " 5 I J, of
 " 6 K L, of
 " 7. M N, of

Dated the day of 19

Witness to the above signatures
 X Y., of

FORM D.

(See sections 8 and 151.)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN
 UNLIMITED COMPANY HAVING A SHARE CAPITAL.

Memorandum of Association.

- 1st.—The name of the company is "The Patent Stereotype Company."
 - 2nd.—The registered office of the company will be situate in the province of Bombay.
 - 3rd.—The objects for which the company is established are "the working of a patent method of founding and casting stereotype plates of which method P. Q, of Bombay is the sole patentee."
- We, the several persons whose names are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Descriptions of Subscribers.	Number of shares taken by each Subscriber.
" 1. A. B. of	3
" 2. C D. of	2
" 3 E. F. of	1
" 4. G. H. of	2
" 5. I. J. of	2
" 6. K. L. of	1
" 7. M. N. of	1
Total shares taken ...	12

Dated the

day of

19

witness to the above signatures.

X. Y., of

*Articles of Association to accompany the preceding
Memorandum of Association.*

1. The share capital of the company is twenty Thousand rupees, divided into twenty shares of one thousand rupees, each.

2. All the articles of Table A of the Indian Companies Act, 1913, shall be deemed to be incorporated with this articles, and to apply to the company.

Names Addresses and Descriptions of Subscribers.

" 1. A. B. of	, merchant
" 2 C. D. of	
" 3. E. F. of	
" 4 G. H. of	
" 5. I. J. of	
" 6. K L. of	
" 7. M. N. of	

Dated the

day of

19

Witness to the above signatures.

X. Y., of

FORM E,
AS REQUIRED BY PART II. OF THE ACT.

(See section 32.)

Summary of Share Capital and Shares of the Company,
Limited, made up to the day of 19 (being
the day of the first ordinary general meeting in 19).

Nominal share capital Rs. divided { shares of Rs. each.
into* { shares of Rs. each.

Total number of shares taken up* to the day
of 19 which number must agree with }
the total shown in the list as held by existing }
members.

Number of shares issued subject to payment
wholly in cash.

Number of shares issued as fully paid up other
wise than in cash.

Number of shares issued as partly paid up to }
the extent of per share otherwise than in }
cash.

† There has been called up on each—of shares ... Rs.

There has been called up on each—of shares ... Rs.

There has been called up on each—of shares .. Rs.

‡ Total amount of calls received, including pay- } Rs.
ments on application and allotment }

Total amount (if any) agreed to be considered }
as paid on shares which have been issued as } Rs.
fully paid up otherwise than in cash }

Total amount (if any) agreed to be considered }
as paid on shares which have been issued as } Rs.
partly paid up to the extent of per share }

Total amount of calls unpaid Rs.

Total amount (if any) of sums paid by way of }
commission in respect of shares or deben- } Rs.
tures or allowed by way of discount since }
date of last summary,

Total amount (if any) paid on shares§ forfeited .. Rs.

Total amount of shares and stock for which }
share warrants are outstanding. }

Total amount of share-warrants issued and }
surrendered respectively since date of last } Rs.
summary. }

* When there are shares of different kinds or amounts (*e. g.* Preference and Ordinary or Rs. 200 or Rs. 100), state the numbers and nominal values separately.

† Where various amounts have been called or there are shares of different kinds, state them separately.

‡ Include what has been received on forfeited as well as on existing shares.

§ State the aggregate number of shares forfeited.

Names and addresses of the persons who are the Directors
of the _____, Limited, on the _____ day of _____ 19 ____.

Names.	Addresses.

Names and addresses of the persons who are the managers
of the _____, Limited, on the _____ day of _____ 19 ____.

Names.	Addresses.

NOTE.—Banking companies must add a list of all their places of business.

I, _____ do hereby certify that the above list and
summary truly and correctly states the facts as they stood
on _____ day of _____ 19 ____.

(Signature) _____.

(State whether director, manager or secretary.)

FORM F.
(See section 132)

Balance-sheet as at

LIMITED,
19 .

CAPITAL AND LIABILITIES.	Rs.	As	P	Rs.	As.	P.
CAPITAL—						
Authorised Capital...shares of Rs... each.	...					
Issued Capital...shares of Rs...each						
Subscribed Capital...shares of Rs. .. each	.					
Amount called up at Rs...per share			
Less—Calls unpaid			
Add—Forfeited shares (amount paid up)			

RESERVE FUND OR DEVELOPMENT FUND			
ANY SINKING FUND
ANY OTHER FUND CREATED OUT OF NET PROFITS				
ANY PENSION OR INSURANCE FUND			
PROVISION FOR BAD AND DOUBTFUL DEBTS.			
LOANS ON MORTGAGE OR MORTGAGE DEBENTURE BONDS			
LOANS OTHERWISE SECURED ... (Stating the nature of security)			
LOANS UNSECURED.						
INTEREST
Accrued on Mortgages, Debentures or other Secured Loans						
UNCLAIMED DIVIDENDS
LIABILITIES
For Goods supplied				

CAPITAL AND LIABILITIES.			Rs.	As.	P	Rs.	As.	P
For Expenses	...	...	...		...
"Acceptances	...	...	..	...	..
"Other Finance	..	...	.....	.	.
ADVANCE PAYMENTS AND UNEXPIRED DISCOUNTS.								
(For the portion for which value has still to be given, <i>e g.</i> , in the case of the following classes of Companies—Newspaper Fire Insurance, Theatre, Club, Backing, Steamship Companies &c )						....	...
PROFIT AND LOSS	...	..				
Balance as per previous Balance-sheet				..		..	.	...
Less—appropriation thereof			...	...	.
Balance brought forward	..		.	...
Profit since last Balance-sheet	...		...	..
(N. B.—These details need not be given if the same be contained in a Profit and Loss account attached to the Balance-sheet)								
					
CONTINGENT LIABILITIES—								
Claims against the Company not acknowledged as debts.			.....	...	.
Moneys for which the Company is contingently liable.			..	.	..
Arrears of Cumulative Preference Dividends.			.....	...	...
PROPERTY AND ASSETS.			Rs.	As.	P	Rs.	As.	P
FIXED CAPITAL EXPENDITURE								
(Distinguishing as far as possible between expenditure upon goodwill, land, buildings, leaseholds, railway sidings, plant, machinery, furniture, development of property patents, trade marks and designs, interest paid out of Capital during construction, etc., and stating in every case the original cost and the total Depreciation written off under each head.)								

PROPERTY AND ASSETS.			Rs.	As.	P.	Rs.	As.	P.
PRELIMINARY EXPENSES
COMMISSION OR BROKERAGE
(Commission or Brokerage paid for underwriting or placing shares or debentures until written off)					
STORES AND SPARE GEAR
LOOSE TOOLS
LIVE STOCK
STOCK IN TRADE
(Stating mode of valuation, <i>e. g.</i> , cost or market-value)								
BILLS OF EXCHANGE
BOOK DEBTS
(Distinguishing in the case of a Bank between those considered good and in respect of which the Bank is fully secured and those considered good for which the Bank holds no security other than the debtor's personal security, and distinguishing in all cases between debts considered good and debts considered doubtful or bad Debts due by Directors or other officers of the company or any of them either severally or jointly with any other persons to be separately stated in all cases)								
ADVANCES
(Recoverable in cash or in kind or for value to be received <i>e. g.</i> , Rates, Taxes Insurance, etc.)								
INVESTMENTS
(Nature of Investment and mode of valuation <i>e. g.</i> , cost or market-value.)								
INTEREST ACCRUED ON INVESTMENTS
CASH AND OTHER BALANCES						
Amount in hand			
Balances with Agents and Bankers (in detail showing whether on Deposit or current account etc.),					
Profit and Loss (giving, in the case of a debit balance details as far as possible as in the case of a credit balance).					
					

FORM G.

(See section 136)

FORM OF STATEMENT TO BE PUBLISHED BY BANKING AND
INSURANCE COMPANIES AND DEPOSIT, PROVIDENT,
OR BENEFIT SOCIETIES.

* The share capital of the company is Rs. _____ divided into _____ shares of _____ each.

The number of shares issued is _____
 Calls to the amount of Rs. _____ per share have been made, under
 which the sum of Rs. _____ has been received.

The liabilities of the company on the thirty-first day of December (or thirtieth of June) were :—

Debts owing to sundry persons by the company :

Under decree, Rs.

On mortgages or bonds, Rs.

On notes, bills or hundis, Rs.

On other contracts, Rs.

On estimated liabilities, Rs.

The assets of the company on that day were,

Government securities [stating them], Rs.

Bills of exchange, hundis and promissory notes, Rs.

Cash at the Bankers, Rs.

Other securities, Rs.

* If the company has no capital divided into shares, the portion of the statement relating to capital and share must be omitted.

THE FOURTH SCHEDULE.

(See section 290.)

ENACTMENTS REPEALED.

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1882 ...	VI.	The Indian Companies Act, 1882.	So much as has not been repealed.
1887 ...	VI.	The Indian Companies Act, (18-82) Amendment Act, 1887..	The whole.
1891 ...	XII.	The Amending Act, 1891 ...	So much of the Second Schedule as relates to the Indian Companies Act, 1882.
1895 ...	XII.	The Indian Companies (Memorandum of Association) Act, 1895.	The whole.
1899 ...	IX.	The Indian Arbitration Act, 1899.	The second proviso to Section 3 relating to the Indian Companies Act, 1882.
1900 ...	IV.	The Indian Companies (Branch Registers) Act, 1900.	The whole.
1910 ...	IV.	The Indian Companies (Amendment Act, 1910.	The whole.

ACT NO. VIII. OF 1913.

The Indian Criminal Law (Amendment) Act 1913.

PASSED BY THE GOVERNOR-GENERAL OF
INDIA IN COUNCIL

Received the G.-G.'s Assent on the 27th March, 1913.

*An Act further to amend the Indian Penal Code and
the Code of Criminal Procedure, 1898.*

WHEREAS it is expedient further to amend the Indian Penal Code* and the Code of Criminal Procedure 1898,† It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Indian Criminal Law (Amendment) Act, 1913.

Amendment of section 40, Indian Penal Code **2.** In section 40 of the Indian Penal Code,* after the word and figures "Chapter IV.," the word, figure and letter "Chapter VA" shall be inserted.

Insertion of new Chapter in the Indian Penal Code. **3** After Chapter V. of the said Code, the following Chapter shall be inserted, namely —

"CHAPTER VA.

CRIMINAL CONSPIRACY.

Definition of criminal conspiracy. **120A.** When two or more persons agree to do or cause to be done,—

(1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy :

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object

120B (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of

* Act XLV. of 1860.

† Act V. of 1898.

such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both."

4. In section 195, sub-section (3), of the Code of Criminal Procedure, 1898,* before the words "the abetment," the words "criminal conspiracies to commit such offence and to" shall be inserted.

Amendment of section 195, Code of Criminal procedure, 1898. Insertion of new section 196A in Code of Criminal Procedure, 1898.

Prosecution for certain classes of criminal conspiracy. Code.†

5. After section 196 of the Code (of Criminal Procedure 1898)* the following section shall be inserted, namely :—

"196A. No Court shall take cognizance of the offence of criminal conspiracy punishable under section 120B of the Indian Penal

(1) in a case where the object of the conspiracy is to commit either an illegal act other than an offence, or a legal act by illegal means or an offence to which the provisions of section 196 apply unless upon complaint made by order or under authority from the Governor-General in Council the Local Government or some officer empowered by the Governor-General in Council in this behalf, or

(2) in a case where the object of the conspiracy is to commit any noncognizable offence, or a cognizable offence not punishable with death, transportation or rigorous imprisonment for a term of two years or upwards unless the Local Government or a Chief Presidency Magistrate or District Magistrate empowered in this behalf by the Local Government has, by order in writing consented to the initiation of the proceedings :

Provided that where the criminal conspiracy is one to which the provisions of sub section (3) of section 195 apply no such consent shall be necessary."

Amendment of Schedule II. of the Code of Criminal Procedure, 1898. 6. In Schedule II. of the Code (of Criminal Procedure, 1898*) after the entries relating to Chapter V., the entries contained in the Schedule hereto annexed shall be inserted.

* Act V. of 1898.

† Act XLV. of 1860.

SCHEDULE.

"CHAPTER A."

Criminal Conspiracy.

1	2	3	4	5	6	7	8
120B.	Criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards.	May be arrested without warrant if arrest for the offence which is the object of the conspiracy may be made without warrant, but not otherwise.	According as a warrant or summons may be issued for the offence which is the object of the conspiracy.	According as the offence which is the object of the conspiracy is bailable or not.	Not compoundable.	The same punishment as that provided for the abatement of the offence which is the object of the conspiracy.	Court of Session when the offence which is the object of the conspiracy is triable exclusively by such Court, in the case of all other offences Court of Session, Presidency Magistrate or Magistrate of the first class
	Any other criminal conspiracy	Shall not be arrested without a warrant	Summons ...	Bailable	Ditto	Imprisonment of either description for six months and fine or both.	Presidency Magistrate or Magistrate of the first class

ACT NO. I, OF 1914.

The Code of Civil Procedure (Amendment) Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

Received the G.-G.'s Assent on the 16th January, 1914.

—

An Act further to amend the Code of Civil Procedure, 1908.

Whereas it is expedient further to amend the Code of Civil Procedure, 1908* ; It is hereby enacted as follows :—

Short Title. 1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1914.

Addition of provisos to section 8, Code of Civil Procedure, 1908 2 To section 8 of the Code of Civil Procedure, 1908* (hereinafter referred to as "the said Code") the following provisos shall be added, namely :—

"Provided that—

- (1) the High Courts of Judicature at Fort William, Madras and Bombay, as the case may be, may from time to time, by notification in the local official Gazette, direct that any such provisions not inconsistent with the express provisions of the Presidency Small Cause Courts Act, 1882,† and with such modifications and adaptations as may be, specified in the notification, shall extend to suits or proceedings or any class of suits or proceedings in such Court.
- (2) All rules heretofore made by any of the said High Courts under section 9 of the Presidency Small Cause Courts Act, 1882, † shall be deemed to have been validly made.

* Act V. of 1908.

† Act XV. of 1882

Amendment of section 67. Code of Civil Procedure, 1908.

3. Section 67 of the said Code shall be renumbered section 67 (1) and to the same section the following sub-section (2) shall be added, namely :—

“(2) When, on the date on which this Code came into operation in any local area, any special rules as to sale of land in execution of decrees were in force therein, the Local Government may, by notification in the local official Gazette declare such rules to be in force, or may, with the previous sanction of the Governor-General in Council, by a like notification, modify the same.

Every notification issued in the exercise of the powers conferred by this sub section shall set out the rules so continued or modified.”

* Act VIII of 1878.

which such a notification has been issued as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to Sea Customs, and the law for the time being in force relating to Sea Customs or any such article shall apply accordingly.

5. (1) The Local Government may subject to the control of the Governor General in Council make rules for the detention, inspection, disinfection or destruction of any article or class of articles in respect of which a notification has been issued under section 3 or of any article which may have been in contract or proximity thereto, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(2) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine, which may extend to one thousand rupees.

6. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

Power of Local Govern-
ment to make rules.

Protection to persons
acting under Act.

ACT NO. III. OF 1914.

The Indian Copyright Act, 1914

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the G.-G's Assent on the 24th February, 1914.

*An act to modify and add to the provisions of the
Copyright Act, 1911.*

WHEREAS it is expedient to modify and add to the provisions of the Copyright Act, 1911,* in its application to British India; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and extent. 1. (1) This Act may be called the Indian Copyright Act, 1914.

(2) It extends to the whole of British India including British Baluchistan the District of Angul and the Sonthal Parganas.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "the Copyright Act" means the Act of Parliament entitled the Copyright Act, 1911,* and

(2) words and expressions defined in the Copyright Act have the same meanings as in that Act.

CHAPTER II.

CONSTRUCTION AND MODIFICATION OF THE COPYRIGHT ACT.

3. In the application to British India of the Copyright Act (a copy of which Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, is set out in the First Schedule), the following modifications shall be made, namely :—

(1) the powers of the Board of Trade under section 3 shall, in the case of works first published in British India, be exercised by the Governor-General in Council ;

* 1 & 2, Geo. 5, c. 46.

- (2) the powers of the Board of Trade under section 19 shall, as regards records, perforated rolls and other contrivances, the original plate of which was made in British India, be exercised by the Governor-General in Council ; and the confirmation of Parliament shall not be necessary to the exercise of any of these powers ;
- (3) the references in section 19, sub-section (4), and in section 24, sub-section (1), to arbitration shall be read as references to arbitration in accordance with the law for the time being in force in that part of British India in which the dispute occurs ;
- (4) as regards works the authors whereof were at the time of the making of the works resident, in British India, and as regards works first published in British India, the reference in section 22 to the Patents and Designs Act, 1907,* shall be construed as a reference to the Indian Patents and Designs Act, 1911,† and the reference in the said section to section 86 of the Patents and Designs Act, 1907, shall be construed as a reference to section 77 of the Indian Patents and Designs Act, 1911 ;
- (5) as regards works first published in British India, the reference in section 24, sub section (1) proviso (a), to the *London Gazette* and two London newspapers shall be construed as a reference to the *Gazette of India* and two newspapers published in British India ; and the reference in proviso (b) of the same sub-section of the same section to the 26th day of July, 1910, shall, as regards works the authors whereof were at the time of the making of the works resident in British India, and as regards works first published in British India, be construed as a reference to the 30th day of October, 1912

4. (1) In the case of works first published in British India, copyright shall be subject to this limitation that the sole right to produce, reproduce, perform or publish a translation of the work shall subsist only for a period of ten years from the date of the first publication of the work :

Provided that if within the said period the author or any person to whom he has granted permission so to do publishes a translation of any such work in any language, copyright in such work as regards the sole right to produce, reproduce, perform or

* 7 Edw. VII. Cap. 29.

† Act II. of 1911.

publish a translation in that language shall not be subject to the limitation prescribed in this sub-section.

(2) For the purposes of sub-section (1) the expression "author" includes the legal representative of a deceased author.

5. In the application of the Copyright Act to musical works Musical works made by the authors whereof were at the time of resident of, or first published in, British India. the making of the works resident in British India, or to musical works first published in British India, the term "musical work" save as otherwise expressly provided by the Copyright Act, mean "any combination of melody and harmony, or either of them, which has been reduced to writing."

6. (1) Copies made out of British India of any work in which copyright subsists which if made in British India would infringe copyright, and as to Importation of copies. which the owner of the copyright gives notice in writing by himself or his agent to the Chief Customs officer, as defined in the Sea Customs Act, 1878,* that he is desirous that such copies should not be imported into British India, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be prohibited imports within the meaning of section 18 of the Sea Customs Act, 1878.*

(2) Before detaining any such copies, or taking any further proceedings with a view to the confiscation thereof, such Chief Customs officer, or any other officer appointed by "the Customs authority" † in this behalf, may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself, in accordance with these regulations, that the copies are such as are prohibited by this section to be imported.

(3) The Governor-General in Council may, by notification in the *Gazette of India*, make regulations, either general or special, respecting the detention and confiscation of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and confiscation; and may, by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) Such regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant reimbursing the Secretary of State for India in Council all expenses and

* Act VIII of 1878.

† The words within quotations have been substituted by Act 4 of 1924.

damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention ; and may provide that notices given under the Copyright Act to the Commissioners of Customs and Excise of the United Kingdom, and communicated by that authority to any authority in British India, shall be deemed to have been given by the owner to the said Chief Customs officer.

(6) This section shall have effect as the necessary modification of section 14 of the Copyright Act.

CHAPTER III.

PENALTIES

Offences in respect of
infringing copies.

7. If any person knowingly—

- (a) Makes for sale or hire any infringing copy of a work in which copyright subsists, or
- (b) sells or lets for hire, or by way of trade exposes or offers for sale or hire, any infringing copy of any such work ; or
- (c) distributes infringing copies of any such work, either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright ; or
- (d) by way of trade exhibits in public any infringing copy of any such work ; or
- (e) imports for sale or hire into British India any infringing copy of any such work ;

he shall be punishable with fine which may extend to twenty rupees for every copy dealt with in contravention of this section, but not exceeding five hundred rupees in respect of the same transaction.

8 If any person knowingly makes, or has in his possession, any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be punishable with fine which may extend to five hundred rupees.

9. If any person, after having been previously convicted of an offence punishable under section 7 or section 8, is subsequently convicted of an offence punishable under either of these sections, he shall be punishable with simple imprisonment which may extend

Punishment on second
conviction.

to one month, or with fine which may extend to one thousand rupees, or with both.

10. (1) The Court before which any offence under this Chapter is tried may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright, or otherwise dealt with as the Court may think fit.

(2) Any person affected by an order under sub section (1) may, within thirty days of the date of such order, appeal to the Court to which appeals from the Court making the order ordinarily lie; and such appellate Court may direct that execution of the order be stayed pending consideration of the appeal.

11. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act.

12. The provisions of this Chapter shall not apply to any case to which section 9 of the Copyright Act, regarding the restrictions on remedies in the case of a work of architecture, applies.

Saving in case of infringement by construction of building.

CHAPTER IV.

MISCELLANEOUS.

Courts having civil jurisdiction regarding infringement of copyright

13. Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the High Court or the Court of the District Judge.

14. No suit or other civil proceeding instituted after the 30th of October, 1912, regarding infringement of copyright in any book the author whereof was at the time of making the book resident in British India, or of any book first published in British India, shall be dismissed by reason only that the registration of such book had not been affected in accordance with the provisions of the Indian Copyright Act, 1847.*

15. The enactments mentioned in the Second Schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeals.

THE FIRST SCHEDULE.

PORTIONS OF THE COPYRIGHT ACT APPLICABLE TO BRITISH INDIA.

(See section 3)

COPYRIGHT ACT, 1911.

[1 & 2 GEO. 5, CH. 46]

ARRANGEMENT OF SECTIONS.

PART I

IMPERIAL COPYRIGHT

Rights

SECTIONS.

1. Copyright.
2. Infringement of copyright
3. Term of copyright
4. Compulsory licences
5. Ownership of copyright, etc

Civil Remedies.

- 6 Civil remedies for infringement of copyright.
- 7 Rights of owner against persons possessing or dealing with infringing copies etc
8. Exemption of innocent infringer from liability to pay damages, etc.
9. Restriction on remedies in the case of architecture
10. Limitation of actions

* * *

Importation of Copies.

14. Importation of copies.

Delivery of books to Libraries.

15. Delivery of copies to British Museum and other libraries

Special Provisions as to certain Works

16. Works of joint authors.
17. Posthumous works.
18. Provisions as to Government publications.
19. Provisions as to mechanical instruments
- 20 Provisions as to political speeches.

SECTIONS

21. Provisions as to photographs.
 22. Provisions as to designs registrable under 7 Edw 7, c. 29.
 - 23 Works of foreign authors first published in parts of His Majesty's dominions to which Act extends.
 24. Existing works
- Application to British Possessions.*
- 25 Application of Act to British dominions.
 26. Legislative powers of self-governing dominions
 - 27 Power of Legislatures of British possessions to pass supplemental legislation
 - 28 Application to protectorates.

PART II.

INTERNATIONAL COPYRIGHT.

29. Power to extend Act to foreign works
30. Application of Part II to British possessions.

PART III

SUPPLEMENTAL PROVISIONS

- 31 Abrogations of common law rights.
32. Provisions as to Orders In Council.
33. Saving of university copyright.
34. Saving of compensation to certain libraries
- 35 Interpretation
36. Repeal
37. Short title and Commencement.

SCHEDULES.

CHAPTER 46.

AN ACT TO AMEND AND CONSOLIDATE THE LAW
RELATING TO COPYRIGHT.

[16TH DECEMBER 1911.]

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows —

PART I.

IMPERIAL COPYRIGHT.

Rights.

1 (1) Subject to the provisions of this Act, copyright shall subsist throughout the parts of His Majesty's dominions to which this Act extends for the term hereinafter mentioned in every original, literary, dramatic, musical and artistic work if—

(a) in the case of a published work, the work was first published within such parts of His Majesty's dominions as aforesaid, and

(b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid ;

but in no other works, except so far as the protection conferred by this Act is extended by Orders in Council thereunder relating to self governing dominions to which this Act does not extend and to foreign countries.

(2) For the purposes of this Act, "copyright means the sole right to produce or reproduce the work or any substantial part thereof in any material from whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public ; if the work is unpublished, to publish the work or any substantial part thereof ; and shall include the sole right—

(a) to produce, reproduce, perform, or publish any translation of the work ,

- (b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work ;
- (c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise ;
- (d) in the case of a literary, dramatic, or musical work, to make any record, perforated role, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered ;

and to authorise any such acts, as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art, but, for the purposes of this provision the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.

2. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright : Provided that the following acts shall not constitute an infringement of copyright :—

Infringement of copy-right

(i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary

(ii) Where the author of an artistic work is not the owner or the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work :

(iii) The making or publishing of paintings, drawings, engravings, or photographs of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art :

(iv) The publication in a collection, mainly composed or non-copyright matter, *bona fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which

copyright subsists : Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged :

- (v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer ; but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries :
 - (vi) The reading or recitation in public by one person of any reasonable extract from any published work.
- (2) Copyright in a work shall also be deemed to be infringed by any person who—
- (a) sells or lets for hire, or by way of trade exposes or offers for sale or hire ; or
 - (b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright ; or
 - (c) by way of trade exhibits in public ; or
 - (d) imports for sale or hire into any part of His Majesty's dominions to which this Act extends,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.

3. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death :

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a

published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to or for the benefit of the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent on the price at which he publishes the work ; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

4. If, at any time after the death of the author of a literary, dramatic or musical work which has been published or performed in public, a complaint is made to the Judicial Committee of the Privy Council that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a licence to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as the Judicial Committee may think fit.

Ownership of copyright, etc.

5. (1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein.

Provided that—

(a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright ;

(b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a news paper, magazine or similar periodical there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the

work, otherwise than as part of a newspaper, magazine, or similar periodical.

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations to the United Kingdom or any self-governing dominion or other part of his Majesty's dominions to which this Act extends and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorised agent.

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

(3) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, as respects the right so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and the provisions of this Act shall have effect accordingly.

Civil Remedies.

6 (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right

Civil remedies for infringement of copyright

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the

copyright, or, as the case may be, the title of the plaintiff, and where any such question is in issue, then —

(a) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall unless the contrary is proved, be presumed to be the author of the work ;

(b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

7. All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof.

8 Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware and had not reasonable ground for suspecting that copyright subsisted in the work.

9. (1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure or to order its demolition.

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or as impose summary penalties, shall not apply in any case to which this section applies.

10. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

Limitation of actions

Importation of copies.

14 (1) Copies made out of the United Kingdom of any work in which copyright subsists which if made in the United Kingdom would infringe copyright, and as to which the owner of the copyright gives notice, in writing by himself or his agent to the Commissioners of Customs and Excise, that he is desirous that such copies should not be imported into the United Kingdom, shall not be so imported, and shall, subject to the provisions of this section be deemed to be included, in the table of prohibitions and restrictions contained in section forty-two of the Customs Consolidation Act, 1876,* and that section shall apply accordingly.

(2) Before detaining any such copies or taking any further proceedings with a view to the forfeiture thereof under the law relating to the Customs, the Commissioners of Customs and Excise may require the regulations under this section, whether as to information, conditions, or other matters, to be complied with and may satisfy themselves in accordance with those regulations that the copies are such as are prohibited by this section to be imported.

(3) The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) The regulations may apply to copies of all works the importation of copies of which is prohibited by this section or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant reimbursing the Commissioners of Customs and Excise all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention ; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section.

(6) The foregoing provisions of this section shall have effect as if they were part of the Customs Consolidation Act, 1876 : Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part of the United Kingdom for the purposes of this section.

* 39 & 40 Vict., c. 36.

(7) This section shall, with the necessary modifications, apply to the importation into a British possession to which this Act extends of copy of works made out of that possession.

Delivery of Books to Libraries.

15. (1) The publisher of every book published in the United Kingdom, shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

(2) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand or, if the demand was made before publication, within one month after publication, to some depot in London named in the demand a copy of the book for, or in accordance with the directions of the authority having the control of each of the following libraries, namely: the Bodleian Library, Oxford, the University Library, Cambridge, the Library of the Faculty of Advocates at Edinburgh, and the Library of the Trinity College, Dublin, and, subject to the provisions of this section, the National Library of Wales. In the case of an encyclopædia, newspaper, review, magazine, or work published in a series of numbers or parts, the written demand may include all numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the trustees of the British Museum shall be a copy of the whole book with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together, and on the best paper on which the book is printed.

(4) The copy delivered for the other authorities mentioned in this section shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(5) The books of which copies are to be delivered to the National Library of Wales shall not include books of such classes as may be specified in regulations to be made by the Board of Trade.

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or division of a book, pamphlet, sheet of letter-press, sheet of music, map, plan, chart or table separately published, but shall not include any second or subsequent edition.

of a book unless such edition contains additions or alterations either in the letter-press or in the maps, prints or other engravings belonging thereto

Special Provisions as to certain Works.

16. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof :

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(4) Where a married woman and her husband are joint authors of a work the interest of such married woman therein shall be her separate property.

17 (1) In the case of a literary, dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section three of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

(2) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

18. Without prejudice to any rights or privileges of the Provisions as to Crown where any work has, whether before Government publica- or after the commencement of this Act, been tions. prepared or published by or under the direction or control of His Majesty or any Government department, the copyright in the work shall subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work

19. (1) Copyright shall subsist in records perforated rolls, and Provisions as to mecha- other contrivances by means of which nical instruments sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work. and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make within the parts of his Majesty's dominions to which this Act extends, records perforated rolls or other contrivances by means of which the work may be mechanically performed, if such person proves—

- (a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work, and
- (b) that he has given the prescribed notice of his intention to make the contrivances, and has paid in the prescribed manner to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such contrivances sold by him, calculated at the rate hereinafter mentioned :

Provided that—

- (i) nothing in this provision shall authorise any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made

by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question ; and

- (ii) for the purposes of this provision, a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.

(3) The rate at which such royalties as aforesaid are to be calculated shall—

- (a) in the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per cent. ; and

- (b) in the case of contrivances sold as aforesaid after the expiration of that period, be five per cent. ;

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall, in no case, be less than a half-penny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing :

Provided that, if, at any time after the expiration of seven years from the commencement of this Act, it appears to the Board of Trade that such rate as aforesaid is no longer equitable, the Board of Trade may, after holding a public inquiry, make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just, but any order so made shall be provisional only and shall not have any effect unless and until confirmed by Parliament ; but, where an order revising the rate has been so made and confirmed, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing two or more different works in which copyright subsists and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owner of the copyright in such proportions as, failing agreement, may be determined by arbitration.

(5) When any such contrivances by means of which a musical work may be mechanically performed have been made, then, for the purposes of this section, the owner of the copyright in the work shall, in relation to any person who makes the prescribed inquiries be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time.

(6) For the purposes of this section the Board of Trade may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices, are to be given and the particulars to be given in such notices and the mode, time, and frequency of the payment of royalties, and any such regulations may, if the Board think fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

(7) In the case of musical works published before the commencement of this Act, the foregoing provisions shall have effect, subject to the following modifications and additions :

- (a) The conditions as to the previous making by, or with the consent or acquiescence of, the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work shall not apply :
- (b) The rate of two and one-half per cent shall be substituted for the rate of five per cent, as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of contrivances sold before the first day of July, nineteen hundred and thirteen, if contrivances reproducing the same work had been lawfully made, or placed on sale, within the parts of His Majesty's dominions to which this Act extends before the first day of July, nineteen hundred and ten :
- (c) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorising the making, of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignees, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal personal representatives ;
- (d) The saving contained in this Act of the rights and interests arising from, or in connexion with, action taken before the commencement of this Act shall not be construed as authorising any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances, whether made before or after the passing of this Act, except on the terms and subject to the conditions laid down in this section :
- (e) Where the work is a work on which copyright is conferred by an Order in Council relating to a foreign country, the copyright so conferred shall not, except

to such extent as may be provided by the Order, include any rights with respect to the making of records, perforated rolls, or other contrivances by means of which the work may be mechanically performed.

(8) Notwithstanding anything in this Act where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act subsist therein in like manner and for the like term as if this Act had been in force at the date of the making of the original plate from which the contrivance was directly or indirectly derived :

Provided—

- (i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright ; and
- (ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance, if this provision had been in force at the time of the making of the first-mentioned contrivance.

20. Notwithstanding anything in this Act, it shall not be an infringement of copyright in an address of a political nature delivered at a public meeting to publish a report thereof in a newspaper.

Provision as to political speeches

21. The term for which copyright shall subsist in photographs shall be fifty years from the making of the original negative, from which the photograph was directly or indirectly derived, and the person who was owner of such negative at the time when such negative was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate, shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

Provisions as to photographs.

22. (1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907 except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process.

Provisions as to designs registrable under 7 Edw 7, c. 29.

(2) General rules under section eighty-six of the Patents and

Designs Act 1907, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

23. If appears to His Majesty that a foreign country does not give, or has not undertaken to give, adequate protection to the works of British authors, it shall be lawful for His Majesty by Order in Council to direct that such of the provisions of this Act as confer copyright on works first published within the parts of His Majesty's dominions to which this Act extends, shall not apply to works published after the date specified in the Order, the authors whereof are subjects or citizens of such foreign country, and are not resident in His Majesty's dominions, and thereupon those provisions shall not apply to such works.

24. (1) Where any person is immediately before the commencement of this Act entitled to any Existing works. such right in any work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, he shall, as from that date, be entitled to the substituted right set forth in the second column of that schedule, or to the same interest in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made and the work had been one entitled to copyright thereunder ;

Provided that—

(a) if the author of any work in which any such right as is specified in the first column or the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine ; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled at his option either—

(i) on giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration ; or

- (11) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within three years after the date at which the right would have so expired of such royalties to the author as, failing agreement, may be determined by arbitration, or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work without any such payment ;

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found advertised in the *London Gazette* and in two London newspapers :

- (b) where any person has, before the twenty-sixth day of July, nineteen hundred and ten, taken any action whereby he has incurred any expenditure or liability in connexion with the reproduction or performance of any work in a manner which at the time was lawful or for the purpose of or with a view to the reproduction or performance (of a work at a time when such reproduction or performance) would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connexion with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration,

(2) For the purposes of this section, the expression "author" includes the legal personal representatives of a deceased author.

(3) Subject to the provisions of section nineteen, sub-sections (7) and (8) and of section thirty-three of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provision of this section.

Application to British Possessions.

25. (1) This Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, shall extend throughout His Majesty's dominions : Provided that it shall not extend to a self-governing dominion, unless declared by the Legislature of that dominion to be in force therein either without

Application of Act to British dominions.

any modifications or additions, or with such modifications and additions relating exclusively to procedure and remedies, or necessary to adapt this Act to the circumstances of the dominion, as may be enacted by such Legislature.

(2) If the Secretary of State certifies by notice published in the *London Gazette* that any self governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoy within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force the dominion shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act.

26. (1) The Legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act, so far as they are operative within that dominion) Provided that no such repeal shall prejudicially affect any legal rights existing at the time of the repeal, and that, on this Act or any part thereof being so repealed by the Legislature of a self-governing dominion (that dominion) shall cease to be a dominion to which this Act extends.

(2) In any self-governing dominion to which this Act does not extend the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion.

(3) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished) of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except, such parts (if any) thereof as may be specified in the Order, and subject to any conditions contained therein, shall, within the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first mentioned dominion, and to works first published in that dominion; but save as provided by such an Order, works the authors whereof were

resident in a dominion to which this Act does not extend shall not whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends :

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor in Council of any self-governing dominion to which this Act extends, may by Order, confer within that dominion the like rights as His Majesty in Council is, under the foregoing provisions of this sub-section, authorised to confer within other parts of His Majesty's dominions.

For the purposes of this sub-section, the expression "a dominion to which this Act extends" includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends

27. The Legislature of any British possession to which this Act extends may modify or add to any of the provisions of this Act in its application to the possession, but, except so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors whereof were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

28. His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and, on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which this Act extends.

PART II.

INTERNATIONAL COPYRIGHT

29. (1) His Majesty may, by Order in Council, direct that this Act (except such parts, if any, thereof as may be specified in the Order) shall apply—

Power to extend Act to foreign works.

(a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends,

- (b) to literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were, at the time of the making of the works, subjects or citizens of a foreign country to which the Order relates, in the like manner as if the authors were British subjects ;
- (c) in respect of residence in a foreign country to which the Order relates, in like manner as if such residence were residence in the parts of His Majesty's dominions to which this Act extends ;

and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly :

Provided that—

- (i) before making an Order in Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I of this Act ;
- (ii) the Order in Council may provide that the term of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates ;
- (iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the order ;
- (iv) the Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order ;
- (v) in applying the provisions of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country ;
- (vi) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section five of the International Copyright Act, 1886.*

* 49 & 50 Vict., c. 33.

(2) An Order in Council under this section may extend to all the several countries named or described therein.

30. (1) An Order in Council under this Part of this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions and any other possession specified in the Order with respect to which it appears to His Majesty expedient that the Order should not apply.

(2) The Governor in Council of any self-governing dominion to which this Act extends may, as respects that dominion, make the like Orders as under this Part of this Act His Majesty in Council is authorised to make with respect to His Majesty's dominions other than self governing dominions and the provisions of this Part of this Act shall, with the necessary modifications, apply accordingly.

(3) Where it appears to His Majesty expedient to except from the provisions of any Order any part of his dominions, not being a self governing dominion, it shall be lawful for His Majesty by the same or any other Order in Council to declare that such Order and this Part of this Act shall not, and the same shall not, apply to such part, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order.

PART III.

SUPPLEMENTAL PROVISIONS

31. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical, or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

32. (1) His Majesty in Council may make Orders for altering, revoking, or varying any Order in Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2) Every Order in Council made under this Act shall be published in the *London Gazette* and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act

33. Nothing in this Act shall deprive any of the universities and colleges mentioned in the Copyright Act, 1775, * of any copyright they already possess under that Act, but the remedies and penalties for infringement of any such copyright shall be under this Act and not under that Act.

34. There shall continue to be charged on, and paid out of, the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of any Act as compensation to a library for the loss of the right to receive gratuitous copies of books :

Provided that this compensation shall not be paid to a library in any year unless the Treasury are satisfied that the compensation for the previous year has been applied in the purchase of books for the use of and to be preserved in the library.

35 (1) In this Act, unless the context otherwise requires,—

“Literary work” includes maps, charts plans, tables, and compilations ;

“Dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character ;

“Artistic work” includes works of painting drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs ;

“Work of sculpture” includes casts and models ;

“Architectural work of art” means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure : provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction ;

“Engravings” include etchings, lithographs, wood-cuts, prints and other similar works not being photographs ;

"Photograph" includes photo-lithograph and any work produced by any process analogous to photography ;

"Cinematograph" includes any work produced by any process analogous to cinematography ;

"Collective work" means—

(a) an encyclopedia, dictionary year book, or similar work ;

(b) a newspaper, review, magazine, or similar periodical ;
and

(c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated ;

"Infringing", when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made, or imported in contravention of the provisions of this Act ;

"Performance" means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument :

"Delivery," in relation to a lecture, includes delivery by means of any mechanical instrument :

"Plate" includes any stereotype or other plate, stone, block, mould, matrix transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made,

"Lecture" includes address, speech, and sermon ;

"Self governing dominion" means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(2) For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors, administrators or assigns

(3) For the purposes of this Act, a work shall be deemed to be first published within the parts of His Majesty's dominions to which this Act extends, notwithstanding that it has been published simultaneously in some other place, unless the publication in such parts of His Majesty's dominion as aforesaid is

colourable only and is not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days, or such longer period as may, for the time being be fixed by Order in Council

(4) Where, in the case of an unpublished work, the making of work has extended over a considerable period, the conditions of this Act conferring copyright shall be deemed to have been complied with, if the author was, during any substantial part of that period, a British subject or a resident within the part of His Majesty's dominions to which this Act extends.

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the parts of His Majesty's dominions to which this Act extends if he is domiciled within any such part

36. Subject to the provisions of this Act, the enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule :

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

Short title and commencement.

37. (1) This Act may be cited as the Copyright Act, 1911.

(2) This Act shall come into operation—

(a) In the United Kingdom, on the first day of July nineteen hundred and twelve or such earlier date as may be fixed by Order in Council ;

(b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion ;

(c) in the Channel Islands, at such date as may be fixed by the States of those islands respectively ;

(d) in any other British possession to which this Act extends on the proclamation thereof within the possession by the Governor.

SCHEDULES.*

FIRST SCHEDULE.

EXISTING RIGHTS.

Existing Right.	Substituted Right.
<i>(a) In the case of Works other than Dramatic and Musical Works.</i>	
Copyright	Copyright as defined by this Act †
<i>(b) In the case of Musical and Dramatic Works</i>	
Both copyright and performing right.	Copyright as defined by this Act, †
Copyright, but not performing right.	Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public
Performing right, but not copyright	The sole right to perform the work in public, but none of the other rights comprised in copyright as defined by this Act.

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings :—

“Copyright,” in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work ;

“Performing right,” in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

* *Vide* Section 24

† In the case of an essay, article, or portion forming part of and first published in a review, magazine or other periodical of work of a like nature, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under section eighteen of the Copyright Act, 1842.

SECOND SCHEDULE.*

ENACTMENTS REPEALED.

Section and Chapter.	Short Title	Extent of Repeal
8 Geo. 2, c. 13.	The Engraving Copyright Act, 1734. ...	The the whole Act.
7 Geo. 3, c. 38	The Engraving Copyright Act.	Ditto
15 Geo. 3, c. 53	The Copyright Act, 1775 ..	Ditto.
17 Geo. 3. c. 57.	The Prints Copyright Act, 1777.	Ditto.
54 Geo. 3. c. 56.	The Sculpture Copyright Act, 1814 ...	Ditto,
3 & 4 Will 4, c. 15	The Dramatic Copyright Act, 1833 ..	Ditto.
5 & 6 Will 4. c. 65.	The Lectures Copyright Act, 1835.	Ditto.
6 & 7 Will, 4 c. 59.	The Prints and Engravings Copyright (Ireland) Act, 1836	Ditto.
6 & 7 Will. 4. c. 110.	The Copyright Act, 1836	Ditto.
5 & 6 Vict., c. 45	The Copyright Act, 1842	Ditto
7 & 8 Vict., c. 12	The International Copyright Act, 1844 ...	Ditto
10 & 11 Vict, c. 95	The Colonial Copyright Act, 1847.	Ditto.
15 & 16 Vict, c. 12.	The International Copyright Act, 1852, ..	Ditto.
25 & 26 Vict., c. 68.	The Fine Arts Copyright Act, 1862	Sections one to six. In section eight the words "and pursuant to any Act for the protection of copyright engravings," and "in any such Act as aforesaid." Sections nine to twelve.
38 and 39 Vict. c. 12.	The International Copyright Act, 1875 ...	The whole Act.
39 & 40 Vict, c. 36	The Customs Consolidation Act, 1876	Section forty-two, from "Books, wherein" to "such copyright will expire." Sections forty-four, forty-five and one hundred and fifty-two.
45 & 46 Vict., c. 40.	The Copyright (Musical Compositions) Act, 1882	The whole Act.
49 & 50 Vict., c. 33.	The International Copyright Act, 1886.	Ditto.
51 & 52 Vict., c. 17	The Copy right (Musical Compositions) Act, 1888	Ditto.
52 & 53 Vict., c. 42.	The Revenue Act, 1889 ...	Section one, from "Books first published" to "as provided in that section."

* Vide Section 36.

Session and Chapter	Short Title	Extent of Repeal
6 Edw 7, c 36.	The Musical Copyright Act, 1906.	In section three the words "and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844, which registration may be effected notwithstanding anything in the International Copyright Act, 1886."

THE SECOND SCHEDULE.

REPEAL OF ENACTMENTS

(See section 15)

Year.	No.	Short title.	Extent of Repeal.
1847	XX.	The Indian Copyright Act, 1847	So much as has not already been repealed.
1867	XXV.	The Press and Registration of Books Act, 1867	In section 18 the following words namely — "Every registration under this section shall, upon the payment of the sum of two rupees to the office keeping the said Catalogue, be deemed to be an entry in the Book of Registry kept under Act No XX of 1847 (for the encouragement of learning in the territories subject to the Government of the East India Company, by the defining and providing for the enforcement of the right called copyright therein), and the provisions contained in that Act as to the said Book of Registry shall apply, <i>mutatis mutandis</i> to the said Catalogue."
1878	VIII.	The Sea Customs Act, 1878	Clause (a) of section 18.

ACT NO. IV. OF 1914.

The Decentralization Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA

IN COUNCIL.

Received the G.-G.'s assent on the 24th February, 1914.

*An Act to decentralize and otherwise to facilitate
the administration of certain enactments.*

WHEREAS it is expedient to decentralize and otherwise to facilitate the administration of certain enactments; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Decentralisation Act, 1914,

2. The enactments specified in the third column of the Schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

Amendment of certain enactments.	
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3. Any appointment, notification, order, scheme, rule, form or bye-law made or issued by an authority for the making or issuing of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by an appointment, notification, order, scheme, rule, form or bye-law made or issued by such new authority.

THE SCHEDULE.

PART I.

Act of the Governor-General of India in Council.

Year.	No.	Short title.	Amendments.
1859	XI	The Bengal Land Revenue Sales Act, 1859	<p>1 In section 19 for the words "Board of Revenue" substitute the word "Commissioner" and for the word "they" the word "he."</p> <p>2 In section 26 omit the words "if they see cause may recommend to the Local Government to annul the sale, and the Local Government in any such case."</p> <p>3 In section 32 for the word "Government," where that word occurs for the first time substitute the words "the Board of Revenue."</p> <p>4 In section 49 omit the words "or the Local Government."</p>
1859	XII.	The Calcutta Pilots Act, 1859.	In section 17 omit the words "with the sanction of the Governor-General in council" and the words "and sanctioned"
"	XXIV.	The Madras District Police Act, 1859.	<p>1 In section 5 omit the words "and who shall receive such salary as the Governor-General of India in council shall allow."</p> <p>2. In section 8 for the words "with the sanction" substitute the words "subject to the control."</p>
1861	V	The Police Act, 1861	In section 2 for the word "sanction" substitute the word "control."
1863	XXIII.	The Waste-lands (claims) Act, 1863.	<p>1 In section 5 omit the words "Board of Revenue or other" and insert after the word "authority," where that word occurs for the first time, the word "to which he is immediately subordinate" and omit the words "Board or other," wherever these words occur in the section.</p> <p>2. In section 4 and 10 omit the words "by the Local Government,"</p> <p>3. After section 23 insert the following section :—</p>

THE SCHEDULE.

PART I.

Acts of the Governor-General of India in Council—contd.

Year.	No.	Short title.	Amendments
1872	IV.	The Punjab Laws Act 1872	<p>"23A In a province for which there is a Board of Revenue or a Financial Commissioner, the powers and duties of the Local Government under sections 6 10, 22 and 23 may be exercised by such Board or Financial Commissioner, as the case may be."</p> <p>1. In section 39C for the words "with the previous sanction " substitute the words "subject to the control "</p> <p>2 In section 50A for the word "No," substitute the word "All" and for the word "valid" substitute the words "subject to the control of the Governor-General in Council and no such rules shall be valid" and omit clause (c)</p>
1873	III.	The Madras Civil Courts Act, 1873.	<p>1. In sections 3 and 4 omit the provisions.</p> <p>2 In section 6 omit the words "or whenever the Governor-General in Council has sanctioned an addition to the number of District Judges or Subordinate Judges under the provisions of section 3 or section 4 "</p> <p>3 In section 7 omit the words "or whenever the Governor-General in Council has sanctioned an addition to the number of District Munsifs under the provisions of section 4."</p> <p>4 For section 24A the following section shall be substituted — "24A. (1) The High Court may transfer all or any of the ministerial officers of any Civil Court subject to its superintendence to any other such Court." "(2) The District Judge may transfer all or any of the ministerial officers of any Civil Court under his control to any other such Court"</p>

THE SCHEDULE.

PART I

Acts of the Governor-General of India in Council—contd.

Year	No	Short title.	Amendment.
			5 In section 28 for the words "Local Government" substitute the words "High Court" and omit the words "rupees fifty or on the recommendation of the High Court up to any amount not exceeding."
"	VIII.	The Northern India Canal and Drainage Act, 1873	1. In section 65 omit the words "with the previous sanction of the Governor-General in Council."*
1874	IX.	The European Vagrancy Act, 1874	1 In section 11 omit the words "with the previous sanction of the Governor-General in Council."*
1874	IX.	The European Vagrancy Act, 1874	3. In section 36 for the words "the Governor-General in Council" substitute the words "Local Government" and for the words " <i>Gazette of India</i> " substitute the words "local official Gazette."
1876	VI.	The Chota Nagpur Incumbered Estates Act, 1876.	In section 9 after the word "may" where that word occurs for the first time, insert the words "subject to the control of the Governor-General in Council" and omit the words "approved by the Governor-General in Council and."
"	XIX.	The Dramatic Performances Act, 1876	In section 10 omit the words "with the sanction of the Governor-General in Council"
1878	VIII.	The Sea Customs Act, 1878.	1 In section 9 omit the words "with the sanction of the Local Government." 2 In section 11, 12 and 14 after the words "The Local Government" insert the words "or, if so authorised by the Local Government, the Chief Customs-authority." 3 In sections 19A, 53, 75, 76, 79, 83, 85, 96, 116, 130, 144, 147, 148, 151 proviso, and 182, for the words "Local Government," wherever these words occur, substitute the words "Chief Customs-authority."

* Certain words after this repealed by Act 38 of 1920 have been omitted.

THE SCHEDULE.

PART I.

Acts of the Governor-General of India in Council—contd.

Year.	No	Short title.	Amendments.
1878	VIII	The Sea Customs Act, 1878.	<p>4. In sections 15, 16, 17, 26, 55, 56, 63, 76, 86, 104, 105, 106, 107, 113, 117, 122, 137, 162, 179 and 199, for the words "Chief Customs authority" substitute the words "Chief Customs Officer" and for the word "its" when used in relation to the Chief Customs authority, substitute the word "his."</p> <p>5. In the proviso to section 42, after the words "Chief Customs-authority" insert the words "or the Chief Customs Officer" and to the said proviso, add the following, words, namely, "Provided further that the Chief Customs Officer shall not extend the term to a period exceeding three years."</p> <p>6. In sections 101 and 125, for the words "Chief Customs-authority or such officer of Customs as such authority from time to time appoints in this behalf," substitute the words "Chief Customs Officer"</p> <p>7. In section 107, for the word "authority" substitute the word "officer."</p> <p>8. In section 128, for the words "Governor-General in Council" substitute the words "Local Government;" and for the words "<i>Gazette of India</i>" substitute the words "local official Gazette."</p> <p>9. In section 133, for the words "with the previous sanction" substitute the words "subject to the control."</p> <p>10. In section 164, for the words "the Chief Customs-authority may" substitute the words "the Chief Customs Officer may grant or"; for the words "the Chief Customs-authority" and "such authority," wherever these words occur elsewhere in the section, substitute the words "the Chief Customs Officer," and for the words "was</p>

THE SCHEDULE.

PART I.

Acts of the Governor-General of India in Council—contd.

Year.	No	Short title	Amendments.
1878	VIII	The Sea Customs Act, 1878.	<p>authorised " substitute the words "was made or authorised."</p> <p>11. In the schedule in section 167 in entries 6 and 7, for the words " Chief Customs authority " substitute the words " Chief Customs Officer " and in entries 13 and 54 for the words " Local Government " the words " Chief Customs-authority "</p> <p>12 In section 206, for the words " Customs Collector shall, with the sanction of the Chief Customs-authority " substitute the words " Chief Customs Officer or, the Customs Collector, with the sanction of the Chief Customs Officer, shall " and add the following proviso, namely —</p> <p>" Provided that compensation exceeding Rs. 250 shall be paid with the sanction of the Chief Customs-authority." *</p>
1879	XIII.	The Oudh Civil Courts Act, 1879.	<p>1. In section 7 omit the words " and with the previous sanction of the Governor-General in Council "</p> <p>2. In section 17 for the words " Local Government " substitute the words " Judicial Commissioner, " and omit the words " on the recommendation of the Judicial Commissioner "</p> <p>3. In section 24 for the words " Local Government " substitute the words " Judicial Commissioner, " and for the word " it, " wherever it occurs, substitute the word " he "</p>
"	XIV.	The Hackney-carriage Act, 1879.	<p>1. In section 3 for the words " Local Government, " wherever these words occur, substitute the word " Commissioner "</p>

* Certain entry after this repealed by Act 31 of 1920 has been omitted.

THE SCHEDULE.

PART I.

Acts of the Governor-General of India in Council—contd.

Year.	No.	Short title	Amendments.
			2. In section 4 omit the words " subject to the control of the Governor-General in Council "
"	XVI.	The Transport of Salt Act, 1879.	3. In section 5 for the words " Local Government," where these words occur for the first time, substitute the word " Commissioner."
1880	V.	The Burma Boundaries Act, 1880.	1. In section 4 for the words " Governor of Bombay in Council " substitute the words, " Chief Customs-authority "
"	XIII.	The Vaccination Act, 1880	In sections 28 and 32 for the words " Chief Commissioner " substitute the words " Financial Commissioner subject to the control of the Local Government."
"			1. In section 2, clause (7), omit the words " by the Local Government." *
			3. In sections 8 and 19 for the words " Local Government," wherever they occur in these sections, substitute the word " Commissioner ; " and in section 19 before the word " Commissioner," where that word occurs for the second time, insert the word " Municipal "
1881	XXVI.	The Negotiable Instruments Act, 1881.	1. In the definition of " notary public " in section 3 for the words " Governor-General in Council " substitute the words " Local Government."
			2. In sections 138 and 139 for the words " Governor-General in Council " substitute the words " Local Government "
1883	I.	The Central Provinces Local Self-Government Act, 1883.	In section 32 (1) omit the words " with the previous approval of the Governor-General in Council."

* Section (2) after this repealed by Act 38 of 1920 has been omitted

THE SCHEDULE.

PART I.

Acts of the Governor-General of India in Council—contd.

Year.	No	Short title.	Amendments
	XIX	The Land Improvement Loans Act, 1883.	<p>1. In section 10 omit the words "subject to the control of the Governor-General in Council."</p> <p>2. After section 11 add the following section :—</p> <p>"12. The powers conferred on a Local Government by sections 4 (1), 5 (1) and 10 may, in a province for which there is a Board of Revenue or a Financial Commissioner, be exercised in the like manner and subject to the like conditions by such Board or Financial Commissioner, as the case may be : Provided that rules made by a Board of Revenue or Financial Commissioner shall be subject to the control of the Local Government"</p>
	XX.	The Punjab District Boards Act, 1883	<p>1. In section 13 for the words "the Local Government" wherever they occur, substitute the words "Commissioner."</p> <p>2. In section 36, sub-section (3), after the words "as the," wherever they occur, insert the words "Local Government."*</p> <p>3. In section 51 omit the words "with the previous approval of the Governor-General in Council" and the proviso.</p> <p>4. In section 55 omit the letter and words "(b) make rules regulating the powers of District Boards to make, vary and dispose of investments" from clause (1) and insert the letter and words "(b) regulating the powers of District Boards to make, vary and dispose of investments" under clause (2) after the words "make rules for."*</p>

* Certain words after this repealed by Act 38 of 1920 have been omitted

THE SCHEDULE.

PART I.

Acts of the Governor-General of India in council—contd.

Year.	No.	Short title.	Amendments.
1884	XII.	The Agriculturists' Loans Act, 1884.	In section 4, sub-section (1), omit the words "subject to the control of the Governor-General in Council," and after the words "Local Government" insert the words "or, in a province for which there is a Board of Revenue or Financial Commissioner, such Board or Financial Commissioner, subject to the control of the Local Government." *
1887	IX.	The Provincial Small Cause Courts Act, 1887.	In sections 5 and 8 omit the words "with the previous sanction of the Governor-General in Council."
	XII.	The Bengal, Agra and Assam Civil Courts Act, 1887.	+2 Omit section 5 3. In section 6 (1) for the words "the Governor-General in Council has sanctioned an increase of the number of District Judges or sub-ordinate Judges" substitute the words "an increase in the number of District or Subordinate Judges has been made under the provisions of section 4" 4. In section 7 (2) for the words "with the previous sanction" substitute the words "subject to the control" 5. To section 19, sub-section (2), and to sections 25 and 34 (1), add the following proviso, namely :— "Provided that the Local Government may, by notification in the local official Gazette delegate to the High Court its powers under this section."
"	XVI.	The Punjab Tenancy Act, 1887	1. In sections 61 (3) and 88 (1) omit the words "with the previous sanction of the Governor-General in Council."

* Certain entries after this repealed by Act VII of 1918 has been omitted.

† Section (1) before this repealed by Act 38 of 1920 has been omitted.

THE SCHEDULE.

PART I.

Acts of the Governor-General India in Council—contd.

Year	No	Short title	Amendments.
			2 In section 106, sub-section (3), for the words "not take effect until they have been sanctioned by" substitute the words "be made subject to the control of "
	XVII.	The Punjab Land Revenue Act, 1887.	1 In section 7 sub section (1) omit the words "with the previous sanction of the Governor-General in Council." 2. In sections 118 (2) omit the words "to the Commissioner." and for the word "Commissioner, where it occurs for the second time, substitute the words "authority to whom the appeal has been preferred " 3. In section 155, sub-section (3), omit the following —"and rules under clause (c) of sub-section (1) shall not take effect until they have also been confirmed by the Governor-General in Council."
1888	XVIII.	The Burma Financial Commissioner's Act, 1888.	In section 2, sub-section (1), omit the words "with the previous sanction of the Governor-General in Council."
1890	I.	The Revenue Recovery Act, 1890.	In section 3 sub-section (2), after the word "it" insert the words "or by any officer to whom such Collector may by order in writing, delegate this duty.
1892	VII.	The Madras City Civil Court Act, 1892.	In section 10 omit the words "and the sanction of the Governor General in Council.*"
1896.	II.	The Cotton Duties Act, 1896.	1. In sections 12 and 13 for the words "Chief Customs-authority," wherever they occur in those sections, substitute the word "Collector" 2. In section 16, sub-section (I), for the words "Local Government," wherever they occur, substitute the words "Chief Customs-authority "

* Certain entries after this repealed by Act 38 of 1920 and Act 21 of 1923 have been omitted.

THE SCHEDULE.

PART I.

Acts of the Governor-General of India in Council—contd.

Year.	No.	Short title.	Amendments.
1896	VIII.	The Inland Bonded ware-houses Act, 1896.	In section 7 omit the words "with the previous sanction of the Governor-General in Council."
1897	VIII.	The Reformatory Schools Act 1897.	In section 5 omit the words "with the previous sanction of the Governor-General in Council"
1898	XIII.	The Burma Laws Act, 1898.	In section 5 omit the words "with the previous sanction of the Governor-General in Council" and the words "of its own authority."
1899	II.	The Indian Stamp Act, 1899	<p>1. In section 39, sub-section (I), omit the words "upon application made to him in this behalf or, if no application is made, with the consent of the Chief Controlling Revenue authority"</p> <p>2. In section 49 for the words "Governor-General in Council" substitute the words "Local Government."</p>
1899	II.	The Indian Stamp Act, 1899.	<p>3. In section 51 after the word "Revenue authority" insert the words "or the Collector if empowered by the Chief Controlling Revenue authority in this behalf."</p> <p>4. After section 76 insert a new section, Namely — "76A The Local Government may, by notification in the local official Gazette, delegate— Delegation of certain powers (a) all or any of the powers conferred on it by sections 2 (9), 33 (3) (b), 70 (1), 74 and 78 to the Chief Controlling Revenue-authority ; and (b) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45 (1)(2), 56 (1) and 70(2) to such subordinate Revenue-authority as may be specified in the notification."</p>

THE SCHEDULE.

PART I.

Acts of the Governor-General in Council—condt.

Year.	No.	Short title	Amendments.
1899	VIII.	The Indian Petroleum Act, 1899	To section 5 sub section (1), after the words "Local Government" add the words "or an officer appointed by the Local Government in this behalf."
1900	VI.	The Lower Burma Courts Act, 1900	1. In section 23, sub section (1), for the words "may be approved by the Governor-General in Council" substitute the words "it may think fit." 2 In section 23, sub-section (2), omit the words "with the previous sanction of the Governor-General in Council" and the words "of its own authority" *
1903	XVI.	The Central Provinces Municipal Act, 1903.	1. In section 51, sub-section (3), before the words "the Governor General in Council" insert the words "the Local Government subject to the control of." 2 In section 149, sub-section (1) omit the words "with the previous sanction of the Governor General in Council." †
1908	V,	The Code of Civil Procedure, 1908.	In section 138, sub section (1), for the words "Local Government" substitute the words "High Court" ‡
"	XVI	The Indian Registration Act, 1908	1 To section 6 the following proviso shall be added, namely :— "Provided that the Local Government may delegate, subject to such restrictions and conditions as it thinks fit, to the Inspector-General of Registration the power of appointing Sub-Registrars"

* Certain entries after this repealed by Act 4 of 1923 have been omitted.

† Certain entries after this repealed by Act 5 of 1920 and Act 31 of 1920 have been omitted.

‡ Certain entry after this repealed by Act 31 of 1920 has been omitted.

THE SCHEDULE.

PART I.

Acts of the Governor-General of India in Council—concl'd

Year	No.	Short title.	Amendments.
1908	XVI.	The Indian Registration Act, 1908	<p>2 In section 12 for the words "the Local Government fills up the vacancy" substitute the words "the vacancy is filled up."</p> <p>3. In section 13, sub-section (1), before the word "all" insert the words "all appointments made by the Inspector-General under section 6 and."</p> <p>4 To section 13 (3) add the words "and the Inspector-General of Registration may, subject to such conditions and restrictions as the Local Government may impose, exercise the like power in the case of Sub-Registrars appointed by him"†</p>

PART II.

Regulations made by the Governor-General of India in Council under section 1 of the Government of India Act, 1870

1887	VIII.	The Ajmer Irrigation Regulation, 1887	In section 4, sub section (1), for the words "with the previous sanction" substitute the words "subject to the control"
"	XII.	The Upper Burma Ruby Regulation, 1887	<p>1. In section 4 omit the words "with the previous sanction of the Governor-General in Council" wherever they occur</p> <p>2. In section 5, sub-section (2), clause (b), insert after the word "directs" the words "and in accordance with such conditions, if any, as to the time, place and mode of payment as it may direct" and omit sub-section (3)</p>
1899	I.	The Coorg Land and Revenue Regulation 1899.	In section 60, sub-section (1), omit the words "with the previous sanction of the Governor General in Council."

* Certain words after this repealed by Act 33 of 1920 have been omitted.

† Certain entry after this repealed by Act 11 of 1923 has been omitted.

THE SCHEDULE.

Year.	No.	Short title.	Amendments.
1900	VI.	The Coorg District Fund Regulation, 1900.	<p>1. In section 3 omit the words "with the previous sanction of the Governor-General in Council."</p> <p>2. In section 9 omit the words "with the sanction of the Governor-General in Council."</p>
1907	II.	The Coorg Municipal Regulation, 1907.	<p>1. In section 50, sub-section (3) before the words "the Governor-General in Council" insert the words "the Chief Commissioner, subject to the control of,"</p> <p>2. In section 143, sub-section (1), omit the words "with the previous sanction of the Governor-General in Council."</p>

PART III.

Bengal Regulations.

1799	V.	The Bengal Wills and Intestacy Regulation, 1799.	In section 7, the amendment made by the Repealing and Amending Act, 1903. Schedule II., Part I., is repealed, and for the words "Governor-General in Council for his" substitute the words "Board of Revenue, or in Assam, to the Local Government, for its."
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ACT NO. V. OF 1914.

The Negotiable Instruments (Amendment) Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the G.-G.'s assent on the 24th February, 1914.

An Act further to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881,* so as to remove doubts as to the validity of the making and endorsing of negotiable instruments in certain forms ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Negotiable Instruments (Amendment) Act, 1914.

2. In section 13 of the Negotiable Instruments Act, 1881*
 Amendment of section 13, Act XXVI. of 1881. (hereinafter called the said Act), after the figures " 13 " insert the figure and signs "(1)," and to the same section add the following sub-section, namely :—

“(2) A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees.”

3. In section 16 of the said Act, after the figures “ 16 ” insert the figure and signs “ (1) ” and to the same section add the following sub-section, namely :—
 Amendment of section 16, Act XXVI. of 1881.

“(3) The provisions of this Act relating to a payee shall apply with the necessary modifications to an indorsee.”

* Act XXVI. of 1881.

ACT NO. VI. OF 1914.

The Provincial Small Cause Courts (Amendment) Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the G. G.'s assent on the 25th February, 1914.

An Act to amend the Provincial Small Cause Courts Act, 1887.

WHEREAS it is expedient to amend the Provincial Small Cause Courts Act, 1887, * It is hereby enacted as follows :—

Short title.

1. This Act may be called the Provincial Small Cause Courts (Amendment) Act, 1914.

2. In article 35 of the Second Schedule of the Provincial Small Cause Courts Act, 1887* (hereinafter called the said Act), the following amendments shall be made, namely :—

Amendment of article 35, Schedule II, Act IX. of 1887.

(1) After item (1), the following item shall be inserted :—

“(ii) for an act which is or, save for the provisions of Chapter IV. of the Indian Penal Code,† would be, an offence punishable under Chapter XVII. of the said Code.”

(2) For item (1) the following shall be substituted, namely :—

“(1) for illegal, improper or excessive distress, attachment or search, or for trespass committed in, or damage caused by, the illegal or improper execution of any distress, search or legal process.”

Insertion of new article 43-A, Schedule II, Act IX. of 1887.

3. After article 43 of the same Schedule of the said Act, the following article shall be inserted, namely :—

“(43A) a suit to recover property obtained by an act which is, or, save for the provisions of Chapter IV. of the Indian Penal Code,† would be, an offence punishable under Chapter XVII. of the said Code.”

* Act IX. of 1887.

† Act XLV. of 1860.

ACT NO. VII. OF 1914.

The Indian Telegraph (Amendment) Act, 1914.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the G.-G.'s assent on the 28th February, 1914.

An Act further to amend the Indian Telegraph Act, 1885.

WHEREAS it is expedient further to amend the Indian Telegraph Act, 1885, * It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Telegraph (Amendment) Act, 1914.

Substitution of new sub-section for section 1 (2), Act XXIII, 1885.

2. For sub section (2) of section 1 of the Indian Telegraph Act, 1885,* (hereinafter called the said Act), the following shall be substituted, namely :—

Vide vol III, p. 89,

Amendment of section 3 of the said Act.

3. In clause (1) of section 3 of the said Act for the words words "transmitting or making," the words "making, transmitting or receiving" shall be substituted

Addition of further proviso and sub-section (2) to section 4 of the said Act.

4. Section 4 of the said Act shall be renumbered section 4 (1) and after the said sub-section the following proviso and sub-section shall be added, namely :—

Vide vol. III, p. 90.

Insertion of new sections 19A and 19B after section 19 of the said Act.

5. After section 19 of the said Act the following sections shall be inserted, namely :—

Vide vol. III, pp. 96-97.

Substitution of new section for section 20 of the said Act.

6. For section 20 of the said Act the following section shall be substituted, namely :—

Vide vol. III, p. 97.

Insertion of new section 20A after section 20 of the said Act.

7. After section 20 of the said Act the following section shall be inserted, namely :—

Vide vol. III, p. 98.

* XIII. of 1885.

Insertion of new section 25A after section 25 of the said Act. 8. After section 25 of the said Act the following section shall be inserted, namely :—

Vide vol. III, p. 99.

Insertion of new section 29A after section 29 of the said Act. 9. After section 29 of the said Act the following section shall be inserted, namely :—

Vide vol. III, p. 100.

Amendment of section 34 of the said Act. 10. In section 34 (1) of the said Act after the figures and word "18, sub-section (1)," the words, figures and letter "and section 19A, sub-section (2," shall be inserted.

ACT NO. VIII, OF 1914.

The Indian Motor Vehicles Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the G.-G.'s assent on the 28th February, 1914.

An Act to consolidate and amend the law relating to Motor Vehicles in British India.

WHEREAS it is expedient to consolidate and amend the law relating to motor vehicles in British India, It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Indian Motor Vehicles Act, 1914.

(2) This Act, except Part III. thereof, extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the Pargana of Spiti, Part III. extends in the first instance only to the Provinces of Madras, Bombay, Bengal, the United Provinces of Agra and Oudh, the Punjab, Burma, Bihar, and Orissa, the North-West Frontier Province and Delhi. The Local Government of any other Province may, by notification in the local official Gazette, extend Part III. to the whole or any part of such province.

(3) It shall come into force on such date as the Governor-General in Council, by notification in the *Gazette of India*, may direct.

2. "Motor Vehicle" includes a vehicle carriage or other means of conveyance propelled, or which may be propelled, on a road by electrical or mechanical power either entirely or partially ;

Definitions.

"prescribed" means prescribed by rules under this Act ;

"public place" means a road, street, way or other place, whether a thoroughfare or not, to which the public are granted access or over which they have a right to pass.

PART II.

PROVISIONS OF GENERAL APPLICATION.

Prohibition of driving
motor vehicles by per-
sons under 18

3. (1) No person under the age of eighteen years shall drive a motor vehicle in any public place.

(2) No owner or person in charge of a motor vehicle shall allow any person under the age of eighteen years to drive the same in any public place, and in the event of a contravention of sub section (1), the Court may presume that the motor vehicle was driven with the consent of the owner or person in charge.

Duty to stop vehicle
for regulating traffic and
in case of accident

4. The person in charge of motor vehicle shall cause the vehicle to stop and to remain stationary so long as may reasonably be necessary—

- (a) when required to do so by any police officer for the purpose of regulating traffic or of ascertaining his name and address with a view to prosecuting such person under this Act or for any purpose connected with the enforcement of the provisions of this Act or the rules thereunder, or
- (b) when required to do so by any person having charge of any animal if such person apprehends that the animal is, or will be, alarmed by the motor vehicle, or
- (c) when he knows or has reason to believe that an accident has occurred to any person or to any animal or vehicle in charge of a person owing to the presence of the motor vehicle and he shall also, if so required, give his name and address and the name and address of the owner of such motor vehicle.

5. Whoever drives a motor vehicle in a public place recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the place, and the amount of traffic which actually is at the time, or which might reasonably be expected to be, in the place, shall, on conviction, be punishable with fine which may extend to five hundred rupees.

PART III.

LICENCING AND CONTROL.

6. No person shall drive a motor vehicle in a public place unless he is licenced in the prescribed manner, and no owner or person in charge of a motor vehicle shall allow any person who is not so licenced, to drive it :

Licencing of drivers.

Provided that, subject to rules made by the Local Government in this behalf, this section shall not apply to a person receiving instruction in driving a motor vehicle

Transfer of licence

7. The holder of licence shall not allow it to be used by any other person.

Production of licence.
police-officer.

8. The driver of a motor vehicle shall produce his licence upon demand by any

Extent of validity of
licence to drive.

9. Every licence to drive a motor vehicle shall be valid in such area as may be specified therein.

Provided that no licence shall specify any area outside the province in which it is granted, unless it is issued * in accordance with such conditions and restrictions as the Governor-General in Council may impose.

Registration of motor
vehicles,

10. (1) The owner of every motor vehicle shall cause it to be registered in the prescribed manner.

(2) Such registration shall be valid in such area as may be specified in the certificate of registration.

Provided that no certificate of registration shall be valid outside the province in which it is granted unless it is issued in accordance with such conditions and restrictions as the Governor-General in Council may impose.

11. (1) The Local Government, subject to the condition of previous publication, shall make rules for the purpose of carrying into effect the provisions of this Act and of regulating, in the whole or any part of the territories under its administration, the use of motor vehicles or any class of motor vehicles in public places

Power of Local Govern-
ment to make rules

(2) In particular, and without prejudice to the generality of the forgoing powers, the Local Government may make rules for all or any of the following purposes, namely :—

(a) providing for the registration of motor vehicles, and the conditions subject to which such vehicles may be registered, the fees payable in respect of and incidental to registration, the issue of certificates of registration, the notification of any changes of ownership, and (subject to the provisions of section 10), the area in which certificates of registration shall be valid,

(b) providing for facilitating the identification of motor vehicles by the assignment of distinguishing numbers

* Certain words after this repealed by Act 17 of 1914 have been omitted.

to such vehicles and the displaying of number and name plates thereon, or in any other manner ;

(c) regulating the construction and equipment of motor vehicles, including the provision and use of lights, bells, horns, brakes, speedindicators or other appliances ;

(d) prescribing the authority by which, and the conditions subject to which, drivers of motor vehicles or any class of such drivers may be licenced, the fees payable in respect of such licences, and (subject to the provisions of section 9), the area within which, and the duration for which, licences shall be valied ;

“(dd) prescribing the authority by which and the conditions and limitations subject to which licenses may be suspended on cancelled.”*

(e) prescribing the conditions subject to which, and the fees (if any) on payment of which, motor vehicles may be let or plied for hire in public places, generally or in any prticular public place ;

(f) prescribing the precautions to be observed when motor vehicles are standing in any public place ,

(g) limiting the speed at which motor vehicles may be driven generally or in any particular public place ;

(h) prohibiting or regulating the driving of motor vehicles in public places, where their use may, in the opinion of the Local Government, be attended with danger or inconvenience to the public ; and

(i) providing generally for the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property, or of obstruction to traffic.

(3) All rules made under this section shall be published in the local official Gazette ; and, on such publication, shall have effect as if enacted in this Act.

12. The prescribed authority shall give, in the prescribed manner, public notice of any rule, made by the Local Government under section 11, prohibiting or regulating the driving of motor vehicles in any public place, or limiting the speed of motor vehicles, in any such place ; and, for the purpose of giving effect to any such rule, shall display conspicuous notices at or near the place to which the rule refers.

* The words within quotations have been added by Act 27 of 1920.

13. The Local Government may, by notification in the local official Gazette, exclude any area specified in such notification from the operation of this Part ; and may, by a like notification exempt either generally or for a specified period any motor vehicle or class of motor vehicles from the operation of all or any of the provisions of this Part.

Power to Local Government to exclude areas or motor vehicles from this Part.

PART IV.

MOTOR VEHICLES TEMPORARILY LEAVING OR VISITING BRITISH INDIA.

Power of Governor-General in Council to make rules.

14. (1) The Governor-General in Council may make rules for all or any of the following purposes, namely :—

- (i) for the grant and authentication of any travelling passes, certificates or authorities for the use of persons temporarily taking their motor vehicles out of British India, or to drivers of such vehicles when proceeding out of British India for the purpose of driving such vehicles and
- (ii) prescribing the conditions subject to which motor vehicles brought temporarily into British India by persons intending to make a temporary stay there may be possessed, used and driven.
- (2) All rules made under this section shall be published in the *Gazette of India* ; and, on such publication, shall have effect as if enacted in this Act.

Saving.

15. Nothing in this Act or in any rule made "by the local Government under section 11"* relating to—

- (a) the registration of motor vehicles.
- (b) requirements as to construction, identification or equipment of such vehicles, or
- (c) the licensing or qualifications of drivers of such vehicles,

shall apply in the case of any motor vehicle such as is referred to in clause (ii) of subsection (1) of section 14, or of any person possessing, using or driving the same, provided that the requirements of any rule made under the said clause and applicable to such vehicle or person are complied with.

* The words under quotations have been substituted by Act 13 of 1916.

PART V.

MISCELLANEOUS.

16. Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, be punishable with fine which may extend to one hundred rupees, and, in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder, with fine which may extend to two hundred rupees.

17. No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try any offence punishable under this Act or any rule made thereunder.

18. (1) A Local Government may, in its discretion,—
 Cancellation and suspension of licence and disqualification for obtaining licence

(i) cancel or suspend any licence granted under this Act, and

(ii) declare any person disqualified for obtaining a licence under this Act either permanently or for such period as it thinks fit.

* “ (1A) The prescribed authority may, subject to such conditions and limitations as may be prescribed, cancel or suspend any license granted under this Act.”*

(2) Any Court by which any person is convicted of an offence against the provisions of this Act or any rule made thereunder or of any offence in connection with the driving of a motor vehicle shall, if such person holds a licence under the Act, cause particulars of the conviction to be endorsed thereon and may, in respect of such person and of his licence, if any, exercise the like powers as are conferred by sub-section (1) on the Local Government :

Provided that no order made by a Court under this sub-section shall affect any person or licence for a period exceeding one year from the date of such conviction.

(3) Any Court before which the holder of a licence under this Act is accused of any offence mentioned in sub-section (2) may suspend such licence until the termination of the proceedings before it.

(4) A copy of every order of cancellation, suspension or disqualification made under this section in respect of a licence or

* The words within quotations have been substituted by Act 27 of 1920

SCHEDULE.

(SEE SECTION 19)

Enactments Repealed.

Year.	No.	Short title.	Extent of repeal.
		I.—Act of the Governor General in Council.	
1912	XII.	The Motor Vehicles International Circulation Act, 1912	The whole.
		II.—Madras Act	
1907	I.	The Madras Motor Vehicles Act, 1907	The whole.
		III.—Bombay Act.	
1904	II.	The Bombay Motor Vehicles Act 1904.	The whole
		IV.—Bengal Act.	
1903	III.	The Bengal Motor Car and Cycle Act, 1903	The whole.
		V.—United Provinces Act.	
1911	II.	The United Provinces Motor Vehicles Act, 1911	The whole.
		VI.—Punjab Act.	
1907	II.	The Punjab Motor Vehicles Act, 1907.	The whole.
		VII.—Burma Act.	
1906	II.	The Burma Motor Vehicles Act, 1906.	The whole.

ACT NO. IX. OF 1914.

The Local authorities Loans Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL

Received the G-G's assent on the 28th February 1914

*An Act to consolidate and amend the law relating to the
grant of loans to local Authorities.*

WHEREAS it is expedient to consolidate and amend the law
relating to the borrowing powers of local
authorities; It is whereby enacted as
follows :—

Preamble
Short title and extent. 1. (1) This Act may be called the Local
Authorities Loans Act 1914.

(2) It extends to the whole of British India, including the
Sonthal Parganas.

2. In this Act, "local authority" means any person legally
entitled to the control or management of
any local or municipal fund, or legally
entitled to impose any cess, rate, duty or tax within any local
area ;

"funds," used with reference to any local authority, includes
any local or municipal fund to the control or management of
which such authority is legally entitled, and any cess, rate, duty
or tax which such authority is legally entitled to impose, and any
property vested in such authority ;

"prescribed" means prescribed by rules made under this Act ;
and

"work" includes a survey, whether incidental to any other
work or not.

3. (1) A local authority may, subject to the prescribed con-
ditions, borrow on the security of its funds
or any portion thereof for any of the fol-
lowing purposes, namely :—

Borrowing powers of
local authorities.

(i) the carrying out of any works which it is legally autho-
rized to carry out.

(ii) the giving of relief and the establishment and mainten-
ance of relief works in times of famine or scarcity,

- (iii) the prevention of outbreak or spread of any dangerous epidemic disease,
- (iv) any measures which may be connected with or ancillary to any purposes specified in clauses (ii) and (iii),
- (v) the repayment of money previously borrowed in accordance with law :

Provided that nothing in clause (v) shall be deemed to empower a local authority to fix a period for the repayment of any money borrowed thereunder which, when the period fixed for the repayment of the money previously borrowed is taken into account, will exceed the maximum period fixed for the repayment of a loan by or under any enactment for the time being in force.

(2) Nothing in this section shall be deemed to authorize any local authority—

- (a) to borrow or spend money for any purpose for which, under the law for the time being in force, it is not authorized to apply its funds, or
- (b) to borrow money by means of the issue of bills or promissory notes payable within any period not exceeding twelve months.

Power to Governor- 4 (1) The Governor-General in council
General in Council to make rules may make rules consistent with this Act as to—

- (i) the nature of the funds on the security of which money may be borrowed ;
- (ii) the works for which money may be borrowed ;
- (iii) the manner of making applications for permission to borrow money ;
- (iv) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries ;
- (v) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published.
- (vi) the cases in which the Local Government may make loans without the previous sanction of the Governor-General in council, and the cases in which such previous sanction must be obtained ;
- (vii) the cases in which the Local Government may authorize Local authorities to take loans from persons other than the Local Government, and the cases in which the previous sanction of the "Local Government."* must be obtained to such loans ;

* The words within quotations have been substituted by Act 38 of 1920,

- (viii) the manner of recording and enforcing the conditions on which money is to be borrowed ;
 - (ix) the manner and time of making or raising loans ,
 - (x) the inspection of any works carried out by means of loans ,
 - (xi) the instalments, if any, by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon ;
 - (xii) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan ,
 - (xiii) the attachment of such funds, and the manner of disposing of or collecting them ,
 - (xiv) the accounts to be kept in respect of loans ,
 - (xv) the utilization of unexpended balances of loans either in the reduction in any way of the debt of the local authority, or in carrying out any works which that authority legally authorized to carry out , and the sanction necessary to such utilization ,
- and as to all other matter incidental to carrying this Act into effect.

(2) The Governor-General in Council may, subject to such conditions and restrictions as he thinks fit, delegate to a Local Government, or to Local Governments generally, all or any of his powers to make rules under sub section (1)

(4) All rules made under this Act shall be published in the *Gazette of India* if made by the Governor-General in Council, or, if made by the Local Government in the exercise of a delegated power, in the local official Gazette : and, on such publication, shall have effect as if enacted in this Act.

5. If any money borrowed in accordance with the provisions of this Act, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of loan, the Local Government, if itself the lender, may, and if the Local Government is not the lender, shall, on the application of the lender, attach the funds on the security of which the loan was made. After such attachment, no person except an officer appointed in this behalf by the Local Government, shall in any way deal with the attached funds ; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interest and costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings ;

Provided that no such attachment shall defeat or prejudice any Attachment not to debt for which the funds attached were defeat prior charges leg- previously pledged in accordance with ally made. law ;* but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

6. (1) Subject to the provisions of section 26 of the Indian Issue of short-term Paper Currency Act, 1910,* the local authorities mentioned in Schedule I. and any other local authority to which the Governor-General in Council may, by notification in the *Gazette of India*, extend the provisions of this section, may, with the previous sanction of the Governor-General in Council, borrow money by means of the issue of bills or promissory notes payable within any period, not exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under any law for the time being in force :

Provided that the amount of the bills or promissory notes which may so issued, shall not exceed, when the amount of the other moneys for the time being borrowed by such local authority is taken into account, the total amount which such local authority is empowered by law to borrow.

(2) The Governor-General in Council may, by general or special order, regulate the conditions on which money may be borrowed or repaid under this section.

7. Except as provided by or under this Act, no local authority Loans not to be effected shall, for any purpose, borrow money upon, except under this Act. or otherwise charge, its funds ; and any contract otherwise made for that purpose after the passing of this Act shall be void ;

Provided that nothing herein contained shall be deemed—

- (a) to preclude any local authority from exercising the borrowing powers conferred on it by any special enactment now or hereafter in force ; or
- (b) to affect the power conferred on any local authority by any such enactment to charge its funds, by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied.

8. The Secretary of State in Council shall be entitled to the remedy mentioned in section 5 for the recovery of any money lent by him to any local authority before the fifth day of September, 1871, and the interest due on such money,

Application of Act to loans existing previous to the 5th of September, 1871.

9. The enactments mentioned in Schedule II. are repealed to the extent specified in the fourth column thereof :

Repeals.

Provided that all applications, declarations, authorizations, attachments, loans and rules made under any of these enactments shall be deemed to have been made under this Act.

SCHEDULE I.

(See section 6.)

The Corporation of Calcutta.
 The Commissioners for the Port of Calcutta.
 The Commissioners for the Port of Chittagong.
 The Municipal Corporation of the City of Bombay.
 The Trustees of the Port of Bombay.
 The Corporation of Madras.
 The Trustees for the Port of Madras.
 The Municipal Committee of Rangoon.
 The Commissioners for the Port of Rangoon.
 The Municipality of Karachi.
 The Trustees of the Port of Karachi.
 The Trustees for the Improvement of the City of Bombay.
 The Trustees for the Improvement of the City of Calcutta.

SCHEDULE II.
ENACTMENTS REPEALED.
(See section 9.)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1879	XI.	The Loan Authorities Local Act, 1879 ...	So much as it not re-pealed.
1885	XV.	The Local Authorities Loan Act (1879) Amendment Act, 1885	The whole.
1897	XII.	The Local Authorities (Emergency) Loans Act, 1897	So much as it not re-pealed.
1904	III.	The Local Authorities Loan Act, 1904	So much as is not re-pealed.
1905	I.	The Local Authorities Loan (Amendment) Act, 1905	The whole.
1907	V.	The Local Authorities Loan (Amendment) Act, 1907	The whole.
1908	VIII.	The Local Authorities Loan (Amendment) Act, 1908	The whole.
1912	XI.	The Loan Authorities (Emergency) Loans (Amendment) Act, 1912 ...	The whole.

ACT NO. X. OF 1914

The Repealing and Amending Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor General on the 17th
March, 1914.*

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain formal amendments should be made in the enactments specified in the First Schedule ;

and whereas it is also expedient that certain enactments specified in the Second Schedule which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed ;

It is hereby enacted as follows :—

Short title. 1. This Act may be called the Repealing and Amending Act, 1914.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim

or demand, or any indemnity already granted, or the proof of any part act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction, exemption office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

1	2	3	4
Year.	No.	Short title	Amendments.
1850	XXXVII.	The Public Servants (Inquiries) Act, 1850	In section 8, for the words and figures "Act XXX of 1841" the words and figures "the Code of Criminal Procedure, 1898," shall be substituted.
1867	XXV	The Press and Registration of Books Act, 1867.	In section 19, for the words "Secretary to the Government of India in the Home Department," the words "Government of India" shall be substituted.
"	XXXII	The Chief Commissioners' Powers Act	In the preamble, for the words "Chief Commissioners" the words "Chief Commissioner" shall be substituted.
1872	I.	The Indian Evidence Act, 1872.	In section 37, for the words "the Governors in Council of Madras or Bombay, or of the Lieutenant-Governor in Council of Bengal" the following shall be substituted namely "any other legislative authority in British India constituted for the time being under the Indian Councils Act, 1861, the Indian Councils Acts, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909" *
1875	XIII.	The Probate and Administration Act, 1875.	In the title, for the words "Probates and Letters of Administration" the words "Court Fees" shall be substituted
1882	V.	The Indian Easements Act, 1882	For section 3 the following section shall be substituted, namely — <p>"3 All references in any Act or Regulation to sections 26 and 27 of the Indian Limitation Act, 1877, or to sections 27 and 28 of Act No. IX of 1871 shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act"</p>

* Certain entry after this repealed by Act 38 of 1920 has been omitted

THE FIRST SCHEDULE—*contd.*AMENDMENTS—*contd.*(See section 2)—*contd.*

1	2	3	4
Year	No.	Short title	Amendments
1882— <i>conold</i>	XV.— <i>conold</i>	The Presidency Small Cause Courts Act, 1882 — <i>conold</i> .	In section 19, clause (b), for the words "or Bombay" the words "Bombay or Fort William in Bengal" shall be substituted In section 87, for the figures and words "83 or section 85" the words and figures "480 or section 482 of the Code of Criminal Procedure, 1898," shall be substituted. In section 88, for the words and figures "Presidency Magistrates Act, 1877," "the words and figures "Code of Criminal Procedure, 1898," shall be substituted.
1886	X.	The Indian Criminal law Amendment Act, 1886.	In the title and preamble, for the words "Code of Criminal Procedure, 1882, and certain other Acts" the words "Indian Penal Code" shall be substituted.
"	XIII.	The Indian Securities Act 1886.	In section 14 after the words "from time to time," the words "after previous publication" shall be inserted.
1887	IX.	The Provincial Small Cause Courts Act, 1887.	In the Second Schedule, clause (1), for the words "or Bombay" the words "Bombay or Fort William in Bengal" shall be substituted.
1894	I.	The Land Acquisition Act, 1894	In section 2, sub sections (2) and (3) for the words "said Land Acquisition Act," the words and figures "Land Acquisition Act, 1870," shall be substituted
"	VIII	The Indian Tariff Act, 1894.	In section 5, sub-section (2), for the words "and the Governor of Bombay in Council" the words "the Governor of Bombay in Council and the Governor in Council of Fort William in Bengal" shall be substituted.

THE FIRST SCHEDULE—*contd.*AMENDMENTS—*contd.*(See Section 2)—*contd.*

1	2	3	4
Year	No	Short title.	Amendments.
1897	IX.	The Prisons Act, 1894	In section 47, clause (4), for the word "and" the word "or" shall be substituted.
	X.	The General Clauses Act, 1897.	<p>In section 3, between clauses (3) and (4), the following shall be inserted, namely —</p> <p>"(3a) 'Assam Act' shall mean an Act made by the Chief Commissioner of Assam in Council under the Indian Councils Acts, 1861 to 1909."</p> <p>For clause (5) the following shall be substituted, namely .—</p> <p>"(5) 'Bengal Act' shall mean, in the case of Acts passed prior to the 1st April, 1912, an Act made by the Lieutenant-Governor of Bengal in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861, and 1892, or the Indian Councils Acts 1861 to 1909, and in the case of Acts passed after that date an Act made by the Governor of the Presidency of Fort William in Bengal in Council under the Indian Councils Acts, 1861 to 1909 "</p> <p>After clause (5) the following shall be inserted, namely :—</p> <p>"(5a) 'Bihar and Orissa Act' shall mean an Act made by the Lieutenant-Governor of Bihar and Orissa in Council under the Indian Councils Acts, 1861 to 1909."</p> <p>To each of clauses (6) and (8a) the following shall be added, namely .—</p> <p>"or the Indian Councils Acts, 1861 to 1909."</p>

THE FIRST SCHEDULE—*contd.*AMENDMENTS—*contd.*(See section 2)—*contd.*

1	2	3	4
Year.	No	Short title.	Amendments.
			<p>After clause (16), the following shall be inserted namely —</p> <p>“(16a) ‘Eastern Bengal and Assam Act’ shall mean an Act made by the Lieutenant-Governor of Eastern Bengal and Assam in Council under the Indian Councils Acts’ 1861 and 1892, or the Indian Councils Acts, 1861 to 1909 ”</p> <p>To each of clauses (30), (44a) and (55a) the following shall be added, namely :—</p> <p>“or the Indian Councils Acts, 1861 to 1909 ”</p>
1897	XIV	The Indian Short Titles Act, 1897.	<p>In the Schedule for the entry in column 4 against Act XIII of 1875, the following shall be substituted, namely —</p> <p>“The Court Fees (Amendment) Act, 1875.”</p>
1898	V.	The Code of Criminal Procedure, 1898.	<p>In section 484, after the figures “480” the words and figures “or section 482” shall be inserted, and after the words “to punishment” the words “or forwarded him to a Magistrate for trial” shall be inserted</p>
1899	II.	The Indian Stamp Act, 1899.	<p>In Schedule I, article 24 <i>Exemption (b)</i>, after the word “marriages” the word “divorces” shall be inserted.</p>
1903	I.	The Repealing and Amending Act, 1903	<p>In the title, after the word “enactments” where it first occurs, the word “and” shall be inserted.</p>
”	XV.	The Indian Extradition Act, 1903.	<p>In the First Schedule, for the figures “446” the figures “444” shall be substituted,</p>

THE FIRST SCHEDULE—*contd.*AMENDMENTS—*contd.*(See section 2)—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1904	VIII	The Indian Universities Act, 1904	In section 24, sub-section (6) for the figure "3" the figure "5" shall be substituted. *
1908	IV.	The Coroners (Amendment) Act, 1908	In section 2, before the words "the said Act," the words and figures "the Coroners Act, 1871, hereinafter referred to as" shall be inserted
"	V.	The Code of Civil Procedure, 1908	In Schedule I. in Appendix E, Form No. 7, for the bracketed reference "(O. 21, r 22)," the following shall be substituted, namely— "(O. 21, r. 16)," In Appendix F, the last two Forms shall be renumbered 9 and 10 instead of 6 and 7 respectively.
1910	IX.	The Indian Electricity Act, 1910.	In the Schedule, in clause VII. (1), for the words "a notice" the words "one month's notice" shall be substituted.
"	XV.	The Cantonments Act, 1910.	In section 3, sub-section (1), after the word "place" the words "or places" and after the word "quartered" the words "or which, being in the vicinity of such place or places, are required for the service of the troops" shall be inserted
1911	XVII.	"The Indian Aircraft Act, 1911."†	In section 12, clause (b), for the word "to" the word "by" shall be substituted.
"	XVIII.	The Calcutta Improvement (Appeals) Act, 1911.	In section 3, sub-section (2) after the words "is on" the words "one or more of" shall be inserted In section 5, for the words "appeal as if it was" the words "appeal under this Act as if it were" shall be substituted.

* Certain entry after this repealed by act 5 of 1920 has been omitted

† The words within quotations have been substituted by Act 31 or 1920.

THE FIRST SCHEDULE—*concl'd.*AMENDMENTS—*concl'd.*(See section 2)—*concl'd.*

1	2	3	4
Year.	No	Short title.	Amendments
1913	II.	The Official Trustees Act, 1913.	In section 30, sub-section (2), the following clause shall be inserted after clause (e)— “(ee) The disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of the Official Trustee as the Government may consider useless or unworthy of being permanently preserved.”
	III.	The Administrator-General's Act, 1913	In section 50, sub-section (2), the following clause shall be inserted after clause (f) — “(ff) The disposal, by destruction or otherwise of such records, books and papers belonging to or being in the custody of the Administrator-General as the Government may consider useless or unworthy of being permanently preserved.”
	VII.	The Indian Companies Act, 1913.	In the First Schedule, in table A, paragraph 91, for the word “found” the word “formed” shall be substituted

THE SECOND SCHEDULE.

REPEALS.

(See section 3)

1	2	3	4
Year.	No.	Subject or short title	Extent of repeal.
1834	II.	The Secretaries to Government Act, 1834.	The words "and to the Government of Fort William in Bengal."
1838	XXV.	The Wills Act, 1838	In section 1, the words from "and every word importing the singular" to "a made."
1839	XXIX	The Dower Act, 1839	In section 1, the words from "and every word importing" to "or thing."
"	XXX	The Inheritance Act, 1839	In section 1, the words from "and every word importing the singular" to "a made."
1841	X.	The Indian Registration of Ships Act, 1841.	In section 15, the words "upon conviction" occurring between the words "liable" and "on." In section 23, the words "on conviction" where they occur for the second time.
1852	XXX.	The Indian Naturalization Act, 1852.	In section 12, the words from "and words denoting" to "feminine."
1855	XIII	The Indian Fatal Accidents Act, 1855	In section 1, the words "And it is enacted further that." In section 4, the words from "words denoting the singular" to "feminine gender, and"
"	XXIV	The Penal Servitude Act, 1855.	Section 8 so far as it has not been repealed by Act XII. of 1867. In section 15, the words from "words in the singular" to "construction"
1861	V.	The Police Act, 1861	In section 1, the words from "words importing the singular" to "females"
"	XVI	The Stage Carriages Act 1861	In section 21, the words from "words importing the singular" to "feminine" The word "Chief" wherever it occurs before the words "Commissioner of Police."

* Certain entry repealed by Act 21 of 1923 has been omitted.

THE SECOND SCHEDULE—*contd.*REPEALS—*contd.*(See section 3)—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal
1863	XX.	The Religious Endowments Act, 1863	In section 2, the words from "words importing the singular" to "female"
1863	XXIII.	The Waste Lands (Claims) Act, 1863	Section 24
1864	III	The Foreigners Act, 1864.	In section 1, the words from "words importing the singular" to "females." Section 24.
1865	III.	The Carriers Act, 1865.	In section 2, the words from "words in the singular" to "include the singular."
"	X.	The Indian Succession Act, 1865.	In section 3, the words from "words importing the singular" to "female."
"	XV	The Parsi Marriage and Divorce Act, 1865.	In section 2, the words from "words in the singular" to "include the singular."
1866	XXI.	The Native Converts' Marriage Dissolution Act, 1866.	In section 3, the words from "and unless" to "include the singular."
"	XXVII	The Indian Trustee Act, 1866.	In section 2, the words from "words importing the singular" to "female."
1867	XXII.	The Sarais Act, 1867.	In section 2, the words "from words in the singular" to " <i>vice versa</i> ."
"	XXV.	The Press and Registration of books Act, 1867.	In section 1, the words from "words in the singular" to "females."
"	XXXII	The Chief Commissioners' Powers Act	In the preamble, the words "any of" and "Oudh" and in section 1, the words "Oudh" and "as the case may be."
1871	I.	The Cattle Trespass Act.	In section 1, the sub-section (3). In section 26, the words from "the Local Government may at any time" to "under this section." In section 31, the words from "and may" to this section."

THE SECOND SCHEDULE—*contd.*REPEALS—*contd.*(See section 3)—*contd.*

1	2	3	4
Year.	No.	Subject or Short title.	Extent of Repeal.
"	XXIII	The Pensions Act, 1871	In section 1, the words from "and it shall" to "thereof."
1872	I	The Indian Evidence Act, 1872.	In section 37, the words from "This section applies" to "Burma"
1872	IX.	The Indian Contract Act, 1872	In section 1, the words from "The enactments"—to "thereof ; ; but." The Schedule.
1874	IX.	The European Vagrancy Act, 1874.	In section 26, the words from "All fines imposed" to "Courts"
1875	XIII	The Probate and Administration Act, 1875	In the preamble, the words from "Whereas," where it occurs for the first time, to the word "and," where it occurs for the second time ; and the word "also" occurring between the words "it is" and "expedient."
1876	IX.	The Native Coinage Act, 1876.	In Section 1, the words "and it shall come into force at once"*
"	XIX.	The Dramatic Performances Act, 1876.	In section 1, the words "and it shall come into force at once."
1878	VI.	The Indian Treasure-trove Act, 1878.	In section 1, the words "and it shall come into force at once."
"	VII.	The Indian Forest Act, 1878.	In section 1, the words from "on and from" to "hereunder." The Schedule.
"	VIII.	The Sea Customs Act, 1878.	Section 205,†
1880	I	The Religious Societies Act, 1880	In section 1, the words "shall come into force at once, and "

* Certain entry after this repealed by Act 31 of 1920 has been omitted.

† Certain entry after this repealed by Act 21 of 1923 has been omitted.

THE SECOND SCHEDULE—*contd.*REPEALS—*contd.*(See section 3)—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
"	XII.	The Kazis Act, 1880.	In section 1, the words "and it shall come into force at once."
1881	XI	The Municipal Taxation Act, 1881.	In section 1, the words and shall come into force at once"
1881	XVI.	The Obstruction in Fairways Act, 1881	In section 1, the words "and it shall come into force at once."
1882	XII.	The Indian Salt Act, 1882.	In section 1, the words "and it shall come into force at once"
"	XV.	The Presidency Small Cause Courts Act, 1882.	In section 19, clause (r), the words "for the recovery of a wife." Sections 83, 84, 85 and 86 In section 88, the words and figures "section 83 or "
"	XIX.	The Punjab University Act, 1882.	In section 1, the words "and it shall come into force at once."
1884	IV.	The Indian Explosives Act, 1884	In section 6, sub-section (1), the word "and" after clause (a); and clause (b).*
"	IX.	The Legal Practitioners Act, 1884.	In the title the words "and the Indian Stamp Act, 1879." In the preamble, the second clause. In section 1, the word "and" after sub-section (1); and sub-section (2). Section 3.
1886	X.	The Indian Criminal Law Amendment Act, 1886.	The heading . "Indian Penal Code"
1887	II.	The Sea Customs Act (1878) Amendment Act, 1887	Section 22.† The heading "Sea Customs Act, 1878."

* Certain entry after this repealed by Act X of 1920 has been omitted.

† Certain entry after this repealed by Act 21 of 1923 has been omitted.

THE SECOND SCHEDULE—*contd.*REPEALS—*contd.*(See section 3)—*contd*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1887	IX.	The Provincial Small Cause Courts Act, 1887.	In the Second Schedule, in item (37), the words "for the recovery of a wife"
1887	XVIII.	The Allahabad University Act, 1887	In section 1, the word "and" after sub-section (1); and sub-section (2).
1888	III.	The Police Act, 1888	In section 1, the word "and" after sub-section (2), and sub-section (3).
"	VI.	The Debtors Act, 1888.	So much as is unrepealed.
1889	I.	The Metal Tokens Act, 1889.	In section 1 the word "and" after sub-section (2); and sub-section (3).
"	VI.	The Probate and Administration Act, 1889.	In the title and preamble, the words "and the Indian Stamp Act, 1879." In section 1, the word "and" after sub-section (2); and sub-section (3). Section 8
1890	I.	The Revenue Recovery Act, 1890	In section 1, the word "and" after sub-section (2), and sub-section (3)
"	V	The Forest Act, 1890.	In the title and preamble, the words "and the Burma Forest Act, 1881." In section 1, the word "and" after sub-section (1) and sub-section (2). The headings " <i>Indian Forest Act 1878</i> ," and " <i>Burma Forest Act 1881</i> "
"	XIII.	The Excise (Malt-Liquors) Act, 1890.	In the title and in the preamble, the words and figures "to amend the Excise Act, 1881, and the Bengal Excise Act 1878, and." In section 1, the word "and" after sub-section (1), and sub-section (2).
"	XIX.	The Indian Salt Act (1882) Amendment Act, 1890	So much as is unrepealed.

THE SECOND SCHEDULE—*contd*REPEALS—*contd*(See section 3)—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal
1891	III.	The Indian Evidence Act (1872) Amendment Act, 1891	In the title and preamble, the words "and the Code of Criminal Procedure, 1882;" the heading " <i>Indian Evidence Act, 1872,</i> " and the heading " <i>Code of Criminal Procedure, 1882,</i> " after section 8.
1891	IX.	The Indian Merchandise Marks and Sea-Customs Acts Amendment Act, 1891.	Sections 1 and 2
"	XII.	The Amending Act, 1891.	In section 1, the word "and" after sub-section (2); and sub-section (3) Sub-section (3) of section 2 and of Part I. of the Second Schedule, so much as relates to Act XXI. of 1879 and Act XV. of 1883 *
"	XVI	The Colonial Courts of Admiralty (India) Act, 1891	Section 5 and the Schedule.†
"	XVIII	The Bankers' Books Evidence Act, 1891	In section 1 the word "and" after sub-section (2); and sub-section (3).
1892	II	The Marriage Validation Act, 1892.	Section 1.
"	VI	An Act to amend the Indian Limitation Act, 1877, and the Code of Civil Procedure	So much as is unrepealed.
"	VIII.	The Landsdowne Bridge Act, 1892.	In section 1, the word "and" after sub-section (2); and sub-section (3).
"	X.	The Government Management of Private Estates, Act, 1892.	In section 1, the word "and" after sub-section (2), and sub-section (3). Section 9.

* Certain entry after this repealed by Act I of 1917 has been omitted.

† Certain entry after this repealed by Act. 21 of 1923 has been omitted.

THE SECOND SCHEDULE—*contd.*REPEALS—*contd.*(See section 3)—*contd.*

1	2	3	4
Year.	No.	Subject or short title	Extent of repeal.
1893	I	The Bankers' Books Evidence Act, 1893	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	IV.	The Partition Act, 1893	In section 1, the word "and" after sub-section (2); and sub-section (3).
1894	I.	The Land Acquisition Act 1894	In section 2, sub-section (1), and of sub-section (2) the word "But.
"	III.	The Indian Criminal Law Amendment Act, 1894	In the title and preamble, the words and figures "the Code of Criminal Procedure, 1882, and " The heading, " <i>Indian Penal Code.</i> "
"	VIII.	The Indian Tariff Act, 1894.	In section 1. the word "and" after sub-section (2), and sub-section (3).
"	XV.	The Engineers' Certificates Validation Act, 1894.	In section 1, the word "and" after sub-section (1), and sub-section (2).
1895	I.	The Presidency Small Cause Courts Act, 1895.	In section 3 sub-section (2). Section 12.
"	III.	The Indian Criminal Law Amendment Act, 1895.	In the title and preamble, the words and figures Act VI of 1864 and the Indian Post Office Act 1866 The heading ' <i>Indian Penal Code.</i> '
"	X.	The Indian Railways Companies Act, 1895.	In section 1 the word "and" after sub-section (2); and sub-section (3)
"	XV.	The Crown Grants Act, 1895.	In section 1, the word "and" after sub-section (2), and sub-section (3).
1896	II	The Cotton Duties Act, 1896.	In section 1, the word "and" after sub-section (2); and sub-section (3). In section 8 sub-section (4), the words from "and the first of such returns" to "commencement of this Act." Part III.

THE SECOND SCHEDULE—*contd*REPEALS—*contd.*(See sections 3)—*contd.*

1	2	3	4
Year.	No	Subject or short title.	Extent of repeal.
1896	VIII	The Inland Bonded Warehouses Act, 1896	In section 1, the word "and" after sub-section (2); and sub-section (3). Section 4, sub-section (4),
"	IX	The Indian Railways Act (1890) Amendment Act, 1896.	Section 5.
"	X	The Indian Volunteers Act Amendment Act, 1896.	In section 1, the word "and" after sub-section (2), sub-section (3)
"	XII	The Excise Act, 1896.	In section 1, sub-section (2), the words "the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh;" the word "and" after sub-section (2); and sub-section (3). In section 3, sub-section (1) clause (a), the words "in the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh,—the Board of Revenue."
1897	III	The Epidemic Diseases Act, 1897.	In section 1, the word "and" after sub-section (2); and sub-section (3).
"	IV	The Indian Fisheries Act, 1897.	In section 1, the word "and" after sub-section (2); and sub-section (3)
"	V	The Amending Act, 1897.	In section (1), the word "and" after sub-section (1) and sub-section (2). In the Second Schedule, Part II, the entry relating to Bengal Act, VIII. of 1862.
"	VI	The Negotiable Instruments Act Amendment Act, 1897.	In section 1, the word "and" after sub-section (1) and sub-section (2).
"	VII	The Reformatory Schools Act, 1897.	In section (1), the word "and" after sub-section (1), and sub-section (2)-

THE SECOND SCHEDULE—*contd*REPEALS—*contd.*(See section 3)—*contd.*

1	2	3	4
Year.	No.	Subject or short title	Extent of repeal.
„	IX.	The Provident Funds Act, 1897.	In section 1, the word “and” after sub-section (2); and sub-section (3)
„	X.	The General Clauses Act, 1897.	In section 1, the word “and” after sub-section (1), and sub-section (2).
1897	XIV.	The Indian Short Titles Act, 1897.	<p>In section 1, the word “and” after sub-section (1), and sub-section (2).</p> <p>In the schedule, the entries relating to—</p> <p>Act X. of 1875.</p> <p>Act V of 1887</p> <p>Act I. of 1888.</p> <p>Act XX of 1889.</p> <p>Act XVIII of 1890</p> <p>Act IV. of 1891.</p> <p>Act V. of 1891.</p> <p>Act VI. of 1892.</p> <p>Act V. of 1893.</p> <p>Act II. of 1894.</p> <p>Act VI. of 1894.</p> <p>Act X. of 1894</p> <p>Act IV. of 1895.</p> <p>Act XIII. of 1895.</p> <p>Act I. of 1896.</p> <p>Act IV. of 1896</p> <p>Act V. of 1896.</p> <p>Act XIII. of 1896.</p> <p>Act XIII of 1897.</p>

THE SECOND SCHEDULE—*contd*REPEALS—*contd.*(See section 3)—*contd.*

1	2	3	4
Year	No.	Subject or short title	Extent of repeal
1898.	I.	The Stage Carriages Act (1861) Amendment Act, 1898.	Section 2.
1898	IV	The Indian Penal Code Amendment Act, 1898	In section 1, the word "and" after sub-section (1), and sub-section (2)
"	V.	The Code of Criminal Procedure, 1898.	Section 2 and the First Schedule. In section 471 (1), the words "and shall report the case for the orders of the Local Government" In section 471 (4) the word and figures "section 472."
"	VI.	The Indian Post Office Act, 1898	Section 76 and the Second Schedule.
"	IX	The Live-stock Importation Act 1898	In section 1, the word "and" after sub-section (2); and sub-section (3)
"	X.	The Indian Insolvency Rules Act, 1898	In section 1, the word "and" after sub-section (1), and sub-section (2).
1899	I	The Indian Marine Act (1887) Amendment Act, 1899.	In section 1, the word "and" after sub-section (1), and sub section (2).
"	II.	The Indian Stamp Act, 1899.	In section 1, sub section (2), the words "Upper Burma" Section 79 and the Second Schedule.
"	III.	The Presidency Small Cause Courts Act, 1899.	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	IV.	The Government Buildings Act, 1899.	In section 1, the word "and" after sub-section (2); and sub-section (3).
"	V.	The Indian Evidence Act, 1899.	In section 1, the word "and" after sub-section (1), and sub-section (2). Section 2. Section 5

* Certain entry after this repealed by Act I. of 1917 has been omitted.

THE SECOND SCHEDULE—*contd*REPEALS—*contd*(See section 3)—*contd*

1	2	3	4
Year.	No	Subject or short title.	Extent of repeal.
1899	VIII	The Indian Petroleum Act, 1899	In section 1, the word "and," after sub-section (1), and sub-section (2). Section 25 and the Second Schedule.
"	XI.	The Court-fees Amendment Act, 1899	In section 1, the word "and," after sub-section (1); and sub-section (2). Section 4
"	XII.	The Currency Notes Forgery Act, 1899.	In section 1, the word "and," after sub-section (1), and sub-section (2).
"	XIII.	The Glanders and Farcy Act, 1899.	In section 1, the word "and," after sub-section (2), and sub-section (3). Section 17 and the schedule
"	XIV	The Indian Tariff Amendment Act, 1899	In section 1, the word "and," after sub-section (1), and sub-section (2).
"	XVIII.	The Land Improvement Loans (Amendment) Act, 1899	In section 1, the word "and," after sub-section (1); and sub-section (2)
"	XIX.	The Currency Conversion (Army) Act, 1899	In section 1, the word "and," after sub-section (2), and sub-section (3).
"	XX.	The Presidency Banks Act, 1899	In section 1, the word "and," after sub-section (1); and sub-section (2).
"	XXIII.	The Church of Scotland Kirk Sessions Act, 1899	In section 1, the word "and," after sub-section (2), and sub-section (3).
1900	II.	The Transfer of Property Act, 1900	In section 1, the word "and," after sub-section (1), and sub-section (2).
"	III.	The Prisoners Act, 1900.	In section 1, the word "and," after sub-section (2); and sub-section (3) Section 53 and the Third Schedule.
"	VI.	The Lower Burma Courts Act, 1900	In Schedule L, Part I. the entries relating to Act II of 1877 and Act V. of 1881.

THE SECOND SCHEDULE—*contd.*REPEALS—*contd.*(See section 3)—*contd.*

1	2	3	4
Year.	No.	Subject or short title	Extent of repeal.
1900	VII.	Amending Act XIX of 1899.	Section 2
"	XII.	The Bankers' Books Evidence Act, 1900	In section 1, the word "and" after sub-section (1); and sub-section (2).
1901	II.	The Indian Tolls (Army) Act, 1901.	Section 8 and of the Schedule so much as is unrepealed.
"	V.	The Indian Forest (Amendment) Act, 1901.	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	VII.	The Native Christian Administration of Estates Act, 1901.	In section 1, the word "and" after sub-section (1), and sub-section (2).*
"	X.	The Court-fees (Amendment) Act, 1901.	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	XI.	The Amending Act, 1901.	In the title, the words "and repeal" and "obsolete."
			In section 1, the word "and" after sub-section (1), and sub-section (2).
1902	III.	The Indian Steamships (Amending and Validating) Act, 1902.	Section 2.
"	VI.	Act to abolish the Pandhar Tax.	The whole Act.
"	VIII.	The Indian Tariff (Amendment) Act, 1902	Section 3
1903	I.	The Repealing and Amending Act, 1903.	In the title, the words "and to repeal certain other enactments."
			In the preamble, the third clause.
			In section 1, the words "Repealing and."

* Certain entry after this repealed by Act 4 of 1923 has been omitted.

THE SECOND SCHEDULE—*contd.*REPEALS—*contd.*(See section 3)—*contd.*

1	2.	3	4
Year.	No.	Subject or Short title	Extent of repeal.
1903	I— <i>conold.</i>	The Repealing and Amending Act, 1903— <i>conold.</i>	Sections 4 and 5 and the Third Schedule. In the First Schedule, in Part III., the entry relating to Bengal Act, VIII of 1862.
"	VIII.	The Probate and Administration Act, 1903.	Section 4.
"	X.	The Victoria Memorial Act, 1903.	In section 1, the word "and" after sub-section (1) ; and sub-section (2).
"	XII.	The Indian Tariff (Amendment) Act, 1903.	In section 1, sub-section (2) ; and section 3
"	XV.	The Indian Extradition Act, 1903	Section 24 and the Second Schedule.
1904	VIII	The Indian Universities Act, 1904	Sections 12 and 29 and the Second Schedule.
"	XI.	An Act to revive and continue section 8 (b) of the Indian Tariff, Act 1894.	Section 2.
"	XV.	The Indian Stamp (Amendment) Act, 1904.	In section 1, sub-section (2), the words "Upper Burma."
"	XVI.	The Sea Customs (Amendment) Act, 1904.	The whole Act.
1905	II.	The Indian Universities (Validation) Act, 1905.	Ditto.

THE SECOND SCHEDULE—*contd.*REPEALS—*contd.*(See section 3)—*contd.*

1	2	3	4
Year.	No.	Subject or short title	Extent of repeal
1906	III.	The Indian Coinage Act, 1906.	In section 24, the first clause; and the words "Provided that" and "notwithstanding the repeal of the said Acts;" and the Schedule.
1906	VIII.	The Land Improvement and Agriculturists' Loans (Amendment) Act, 1906.	Sections 2, 3 and 5
1908	V.	The Code of Civil Procedure 1908.	In section 60, sub section (2), the bracketed letter (a), the word "or" after clause (a) and clause (b).*
1909	III.	The Presidency-towns Insolvency Act, 1909.	In section 127, the first sub-section and the first seven words of sub-section (2).
			The Third Schedule.†
1910	VI.	The Indian Stamp (Amendment) Act 1910.	In section 3, clause (ii).
"	X.	The Indian Museum Act, 1910.	Section 17.‡
1911	XII.	The Indian Factories Act, 1911.	In section 36, sub-section (2), the words from "within one month of the commencement of this Act, or" to "this Act."

* Certain entry after this repealed by Act 11 of 1923 has been omitted.

† Certain entry after this repealed by Act 10 of 1923 has been omitted.

‡ Certain entries after his repealed by Acts II and VI of 1923 have been omitted.

THE SECOND SCHEDULE—*concl'd.*REPEALS—*concl'd.*(See section 3)—*concl'd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.

Regulations by the Governor General in Council.

1900	V.	The Coorg Land and Revenue Regulation, 1900.	The whole.
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Bengal Regulations.

1833	IX.	The Bengal Land Revenue (Settlement and Deputy Collectors) Regulation, 1833.	Sections 17, 18 and 25.
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Acts of the Lieutenant-Governor of Bengal in Council.

1862	VIII.	The Bengal Zaminari Dak Act, 1862.	The whole Act.
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ACT NO. XI. OF 1914.

The Indian Companies (Amendment) Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

Received the G.-G.'s assent on the 28th February, 1914.

An Act to amend the Indian Companies Act, 1913.

WHEREAS it is expedient to amend the Indian Companies Act, 1913 ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the India Companies (Amendment) Act, 1914.

Insertion of new sections 83A and 83B in Indian Companies Act, 1913. 2. After section 83 of the Indian Companies Act, 1913* (hereinafter referred to as the said Act) the following heading and sections shall be inserted, namely :—

Vide Vol. V. p. 318.

Insertion of new sections 91A, 91B, 91C and 91D in Indian Companies Act. 1913. 3. After section 91 of the said Act the following sections shall be inserted, namely :—

Vide Vol V. p. 321.

* Act VII of 1913.

ACT NO. XII. OF 1914.

The Sea Customs (Amendment) Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 16th
September, 1914.*

*An Act further to amend the Sea Customs Act, 1878.**

WHEREAS it is expedient further to amend the Sea Customs Act, 1878; * It is hereby enacted as follows :—

Short title.

1. This Act may be called the Sea Customs (Amendment) Act, 1914.

2. In section 19 of the Sea Customs Act, 1878,* (herinafter called the said Act), for the words "or any specified part of British India" the following shall be substituted, namely, "or any specified part thereof, either generally or from or to any specified country, region, port or place beyond the limits of British India."

Amendment of section
19, Act VIII., 1878.

Amendment of section
38, Act VII., 1878.

3. To section 38 of the said Act the following proviso shall be added, namely :—

"Provided that were the shipment of any goods is permitted without a shipping bill, or in anticipation of the delivery of a shipping bill, the rate of duty and tariff valuation, if any, applicable shall be the rate and valuation in force at the time when shipment of the goods commences."

4. In clause (b) of section 49 of the said Act, after the word "goods" the words "or any specified goods or class goods" shall be inserted; and the words "in India" are repealed.

Amendment of section
49, Act VIII., 1878.

Amendment of section
137, Act VIII., 1878.

5. (1) In section 137 of the said Act the following words are repealed, namely :—

"Unless the Chief Customs officer shall, in the case of any customs-port or wharf, or of any class of goods, otherwise direct by notification in the local official Gazette."

* Act VIII. of 1878.

(2) To the same section the following proviso shall be added, namely :—

“Provided that the chief Customs-officer may, in the case of any customs-port or wharf, by notification in the local official Gazette, and subject to such restrictions and conditions, if any, as he thinks fit, exempt goods or any specified goods or class of goods or any specified person or class of persons, from all or any of the provisions of this section”

Amendment of section 155, Act VIII., 1878. 6. In section 155 of the said Act, for the first paragraph shall be substituted the following namely :—

“When by any law for the time being in force, a special duty is imposed on denatured spirit, the Local Government may make rules for ascertaining and determining what spirit imported into British India shall be deemed to be denatured spirit for the purposes of such law, and for causing such spirit to be denatured, if necessary, by its own officers, at the expense of the person importing the same, before the customs duties leviable thereon are levied.”

ACT NO. XIII. OF 1914.

The Indian Life Assurance Companies (Amendment) Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 16th
September, 1914.*

An Act to amend the Indian Life Assurance Companies Act, 1912.

WHEREAS it is expedient to amend the Indian Life Assurance Companies Act, 1912 ;* It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Life Assurance Companies (Amendment) Act, 1914.

2. In section 4 (1) of the Indian Life Assurance Companies Act, 1912,* and in the forms of Balance Sheet (A) and (B) set forth in the Third Schedule to the Act, for the words "Comptroller General" the words "Controller of Currency" shall be substituted.

*Act VI. of 1912.

ACT NO. XV. OF 1914.

The Indian Army (Amendment) Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 16th
September 1914.*

An Act to amend the Indian Army Act, 1911.

WHEREAS it is expedient to amend the Indian Army Act, 1911,* It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Army (Amendment) Act, 1914.

Subscription of new section 114, Act VIII of 1911.

2. For section 114 of the Indian Army Act, 1911,* the following section shall be substituted namely :—

Vide Vol. V p. 77.

* Act VIII of 1911 *

ACT NO. XVI. OF 1914.

The Indian Aircraft (Amendment) Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 16th
September 1914.*

An Act to amend the India Aircraft Act, 1911.

WHEREAS it is expedient to amend the Indian Airships Act, 1911,* It is hereby enacted as follows —

Short title. 1. This Act may be called the Indian Aircraft (Amendment) Act, 1914.

2. In the Indian Airships Act, 1911* (hereinafter called the Substitution of the word "aircraft" for the word "airship" for the words "Airship" and "airships" in Act XVII. 1911. said Act), for the words "airship" and airships," wherever they occur, there shall be substituted the word "aircraft."

Amendment of section 7, Act XVII., 1911. 3. For section 7 of the said Act, the following sections shall be substituted, namely :—

Vide Vol. p. 118.

Amendment of section 8 (5), Act XVII., 1911. 4. For clause (5) of section 8 of the said Act the following clause shall be substituted, namely :—

“(5) a notification issued under section 7. does or abstains from doing any act, unless, in the case of contravening a condition relating to navigation or landing, he proves that he was compelled thereto by stress of weather or other circumstances over which he had no control.”

* Act XVII. of 1911.

ACT NO. XVII. OF 1914.

The Second Repealing and Amending Act, 1914.

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL

*Received the assent of the Governor-General on the 16th
September 1914.*

*An Act to amend certain enactments and to repeal certain
other enactments.*

WHEREAS it is expedient that certain formal amendments should be made in the enactments specified in the First Schedule ;

and whereas it is also expedient that certain enactments specified in the Second Schedule, which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed ,

It is hereby enacted as follows :—

- | | |
|---------------------------------|---|
| Short title. | 1. This Act may be called the Second Repealing and Amending Act, 1914. |
| Amendment of certain enactments | 2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof |
| Repeal of certain enactments. | 3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof. |
| Savings | 4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ; |

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued, or incurred or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim

or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

1	2	3	4
Year.	No	Short title	Amendments.
1870	VII.	The Court Fees Act, 1870	In Schedule II, Article 6, for the words "Bail bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1882, or the Code of Civil Procedure," the following shall be substituted namely — "Bail bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908, and not otherwise provided for by this Act "
1893	III.	The Government Tenants (Punjab) Act, 1893.	1 In the title and preamble, for the word "Punjab" the words "North-West Frontier Province" shall be substituted. 2. For section 1, the following section shall be substituted — "1 (1) This Act may be called the Government Tenants Short title and extent. (North-West Frontier Province) Act, 1893 (2) It extends to the territories for the time being administered by the Chief Commissioner of the North-West Frontier Province"
1894	VIII.	The Indian Tariff Act, 1894.	In Schedule III, for the words "Spirit which has been rendered effectually and permanently unfit for human consumption" the words "Denatured spirit" shall be substituted.
1897	X.	The General Clauses Act, 1897.	1 In section 3, after clause 8 (a), the following shall be inserted, namely :—

THE FIRST SCHEDULE—*contd.*AMENDMENTS—*contd.*(See section 2)—*contd.*

1	2	3	4
Year	No.	Short title.	Amendments
1897	X.	The General Clauses Act, 1897.	<p>"8 (b) 'Central Provinces Act' shall mean an Act made by the Chief Commissioner of the Central Provinces in Council under the Indian Councils Acts, 1861 to 1909."</p> <p>2. To section 24, the following shall be added, namely —</p> <p>"and when any Act of the Governor-General in Council or Regulation, which, by a notification under section 5 or 5A of the Scheduled Districts Act, 1874,* or any like law, has been extended to any local area, has by a subsequent notification, been withdrawn from and re-extended to such area or any part thereof, the provisions of such Act or Regulation shall be deemed to have been repealed and re-enacted in such area or part within the meaning of this section."</p> <p>3. After section 29, the following section shall be added, namely —</p> <p>"30. In this Act the expression "Act of the Governor-General in Council," whenever it occurs except in section 5, and the word "Act" in clauses (9), (12), (38), (48) and (50) of section 3 and in section 25 shall be deemed to include an Ordinance made and promulgated by the Governor-General under section 23 of the Indian Councils Act, 1861.†</p>

* Act XIV of 1874

† 24 & 25 Vict., c. 67.

THE FIRST SCHEDULE—*concl'd.*AMENDMENTS—*concl'd*(See section 2.)—*concl'd.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1908	V.	The Code of Civil Procedure, 1908	In the first Schedule, Order V., for clause (b) of rule 26, the following shall be substituted :— “(b) the Governor-General in Council has, by notification in the <i>Gazette of India</i> , declared, in respect of any Court situate in any such territory and not established or continued in the exercise of any such jurisdiction as aforesaid, that service by such Court of any summons issued by a Court under this Code shall be deemed to be valid service.”
1911	II.	The Indian Patents and Designs Act, 1911.	In sub-section (5) of section 16, after the word “conditions” the words “and restrictions” shall be inserted.
1914	IV.	The Decentralization Act, 1914.	In Part I. of the Schedule, in No. 1 of The amendments made in Act XX. of 1853, for the word “Commissioner” the words “the Commissioner” shall be substituted.

THE SECOND SCHEDULE.

REPEALS.

(See section 3)

1	2	3	4
Year	No.	Short title.	Extent of repeal.
1859	XXIV.	The Madras District Police Act, 1859	In section 1, the words <i>from</i> "words importing the singular" to "include females."
1865	XXX	The Madras Irrigation and Canal Company Act, 1865.	So much as is unrepealed.
1867	III	The Public Gambling Act 1867.	In section 1, the words <i>from</i> "words in the singular" to "include females."
1872	IV	The Punjab Laws Act, 1872.	Section 4 and the Second Schedule.
1875	XV.	The Punjab Laws Amendment Act, 1875.	In section 1, the words "and it shall come into force at once."
1879	XIV	The Hackney Carriage Act, 1879	In section 1, the words "and it shall come into force at once; but."
1880	XVI.	The Madras Irrigation and Canal Company's Act, 1880	The whole.
1881	XXIV.	The Punjab Laws (Amendment) Act, 1881.	In section 1, the words "and shall come into force at once."
1885	XXI.	The Madras Civil Courts Act, 1885.	In section 1, the word "and" after sub-section (1), and sub-section (2).
1889	VI.	The Probate and Administration Act, 1889.	1. In the title and preamble the words "the Court Fees Act, 1870." 2. The heading above section 18. 3. Section 18 so much as is unrepealed.
1892	VII.	The Madras City Civil Court Act, 1892.	In section 1, the word "and" after sub-section (1), and sub-section (2).

THE SECOND SCHEDULE—*concl'd*REPEALS—*concl'd*.(See section 3)—*concl'd*.

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1899	XVI.	The Northern India Canal and Drainage (Amendment) Act, 1899.	In section 1, the word "and" after sub-section (1), and sub section (2).
1908	V.	The Code of Civil Procedure, 1908.	Section 156 and the Fifth Schedule.
"	IX.	The Indian Limitation Act, 1908	Section 32 and the Third Schedule.
1909	IV.	The Whipping Act, 1909	Section 8 and the Schedule.
1911	XVII.	The Indian "Aircraft Act,"* 1911	In section 10, the word "of" in the second place where it occurs
1912	II.	The Co-operative Societies Act, 1912.	Section 50.
"	IV.	The Indian Lunacy Act, 1912.	Section 104 and the Second Schedule.
"	VI.	The Indian Life Assurance Companies Act, 1912.	Section 42.
"	VIII	The Wild Birds and Animals Protection Act, 1912	Section 9
1914	VIII.	The Indian Motor Vehicles Act, 1914.	In the proviso to section 9, the words "by such authority and."

* Substituted by Act 31 of 1920.

ACT NO. III. OF 1915.

Foreigners (Amendment) Act, 1915.

PASSED BY THE GOVERNOR-GENERAL ON INDIA IN COUNCIL

*Received the assent of the Governor-General on the
17th March, 1915.*

An Act to amend the Foreigners Act, 1864.

WHEREAS it is expedient to amend the Foreigners Act, 1864,*
It is hereby enacted as follows :—

1. This Act may be called the Foreigners (Amendment) Act, 1915.
Short title.

2. In section I of the Foreigners Act, 1864,* for the words
Amendment of section 1 of Act III. of 1864 "not being either a natural born subject of Her Majesty within the meaning of the Statute 3 and 4 William IV., Chapter 85, section 81, or a Native of British India" the following words shall be substituted, namely :—

"(a) who is not a natural born British subject as defined in sub-sections (1) and (2) of section 1 of the British Nationality and Status of Aliens Act, 1914,† or

(b) who has not been granted a certificate of naturalisation as a British subject under any law for the time being in force in British India :

Provided that any British subject who, under any law for the time being in force in British India, ceases to be a British subject, shall thereupon be deemed to be a foreigner."

3. After section 3 of the Foreigners Act, 1864,* the following section shall be inserted, namely :—
Insertion of new section 3A, Act III of 1864.

"3A (1) Whenever in a Presidency town the commissioner of Police, or elsewhere the Magistrate of the District, considers that the Local Government should be moved to issue an order under section 3 in respect of any foreigner who is within the limits of such Presidency town or of the jurisdiction of such Magistrate, he may report the case to the Local Government and at the same time issue a warrant for the apprehension of such foreigner.
Foreigner may be apprehended and detained pending order of removal.

(2) Any officer issuing a warrant under sub-section (1) may, in his discretion, direct by endorsement on the warrant that if such foreigner executes a bond with or without sureties for his

*Act III. of 1864.

† Stat. 4 and 5 Geo. V., c. 17.

attendance at a specified place and time, the person to whom the warrant is directed shall take such security and release such foreigner from custody.

(3) Any person executing a warrant under sub-section (1) may search for and apprehend the foreigner named in such warrant; and, subject to any direction issued under sub-section (2), shall forthwith cause such foreigner when apprehended to be produced before the officer issuing the warrant.

(4) When a foreigner for whose apprehension a warrant has been issued under sub-section (1) is produced or appears before the officer issuing such warrant, such officer may direct him to be detained in custody pending the orders of the Local Government, or may release him on his executing a bond with or without sureties to appear at a specified place and time and thereafter if and when required until such orders are obtained.

(5) Any officer who has in accordance with the provisions of sub-section (4), ordered a foreigner to be detained or released on his executing a bond shall forthwith report the fact to the Local Government. On the receipt of a report under this sub-section the Local Government shall without delay either direct that the foreigner be discharged or make an order for the removal of such foreigner in accordance with the provisions of section 3.

ACT NO. VII. OF 1915.

The Delhi Laws Act, 1915.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the G.-G.'s on the 22nd March 1915.

An Act to declare the law in force in certain territory added to the Province of Delhi.

WHEREAS by proclamation published in Notification No. 984-C., dated the 22nd day of February, 1915, the Governor-General in Council, with the sanction and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule I., which was formerly included within the United Provinces of Agra and Oudh, and to include the said territory in the Province of Delhi with effect from the 1st April, 1915;

And whereas it is expedient to declare the law in force in the said territory;

It is hereby enacted as follows :—

Short title and commencement. **1** (1) This Act may be called the Delhi Laws Act, 1915;

(2) It shall come into force on the first day of April, 1915.

2. All enactments (except the enactments specified in Schedule II.) for the time being in force in the territory specified in Schedule A to the Delhi Laws Act, 1912,* and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under such enactments shall be deemed to be in force in the territory specified in Schedule I. in the same manner and subject to the same modifications as they are for the time being in the territory specified in the said Schedule to the said Act.

3. The enactments specified in Schedule III, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under those enactments shall continue to be in force in the territory specified in Schedule I :

Application to added area of law in force in existing Province of Delhi.

Continuance in added area of certain laws now in force in the United Provinces.

*Act XIII. of 1912.

Provided that in the enactments so continued and in all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed thereunder, references to a Local Government, the Lieutenant Governor of the United Provinces of Agra and Oudh, or the Board of Revenue for the United Provinces shall be read as referring to the Chief Commissioner of Delhi; references to a High Court or the High Court of Judicature for the North-Western Provinces as referring to 'High Court of Judicature at Lahore'* and references to the official gazette for the United Provinces as referring to the Gazette of India.

4. For the purpose of facilitating the application to the territory mentioned in Schedule I. of the enactments referred to in section 3 the powers conferred by sections 4 and 5 of the Delhi Laws Act, 1912,* shall be exercisable in respect thereof.

Provision for facilitating application of certain enactments.

5. Save as provided in sections 2 and 3 no enactment which is in force in the United Provinces of Agra and Oudh or any part thereof shall continue to be in force in the territory specified in Schedule I.

Exclusion of certain enactments from the added area.

6. Nothing in this Act shall affect any proceeding which at the commencement thereof is pending in respect of any of the territory mentioned in Schedule I. or of anything arising in such territory and every such proceeding shall be continued as if this Act had not been passed :

Pending proceedings.

Provided that the Local Government may, by notification in the Gazette of India, direct that any proceeding, criminal, civil or revenue, other than a proceeding pending before the High Court of Judicature for the North-West Provinces, shall be transferred to, and disposed of by, the corresponding authority of the Delhi Province.

7. In section 7 of the Delhi Laws Act, 1912,† for the words "the territory mentioned in Schedule A" the words "the Province of Delhi" shall be substituted.

Amendment of section 7 of Act XIII. of 1912.

8. This Act shall be construed with, and deemed to be part of, the Delhi Laws Act, 1912.†

Construction

* The words within quotations have been substituted by Act 18 of 1919.

† Act XIII of 1912.

SCHEDULE I.

TERRITORY ADDED TO THE PROVINCE OF DELHI.

(See section 2.)

Revenue estates of :—

- | | |
|---|--|
| 1. Subehpur. | 33. Ziauddinpur. |
| 2. Jagatpur. | 34. Khanpur Dhani. |
| 3. Baqiabad. | 35. Maujpur. |
| 4. Beharipur. | 36. Ghonda patti Gujran Bangar. |
| 5. Saadatpur Mahal Gujran. | 37. Ghonda patti Chauhān Bangar. |
| 6. Saadatpur Musalmanan | 38. Jafrabad. |
| 7. Saadatpur Amad Delhi. | 39. Uldanpur. |
| 8. Wazirabad. | 40. Babarpur. |
| 9. Khajuri Paramad. | 41. Siqdarpur. |
| 10. Khajuri Khas. | 42. Gokalpur. |
| 11. Garhi Mendu | 43. Sabauli. |
| 12. Timarpur. | 44. Mandauli |
| 13. Chandrawal. | 45. Taharpur. |
| 14. Usmanpur. | 46. Jhilmila. |
| 15. Ghonda patti Gujran Khadar. | 47. Chandavil <i>urf</i> Shadara. |
| 16. Ghonda patti Chauhān Khadar. | 48. Silampur Bangar. |
| | 49. Silampur Khadar. |
| 17. Andhavi | 50. Ghondli Bangar. |
| 18. Kaithwara. | 51. Kakarduman. |
| 19. Silampur Amad Delhi. | 52. Khureji Khas. |
| 20. Ghondli Khadar. | 53. Khureji Baramad. |
| 21. Jatwara Khurd. | 54. Shakarpur Khas Bangar. |
| 22. Mubarakpur Reti. | 55. Mandavil Fazilpur. |
| 23. Shakarpur Khadar. | 56. Hasanpur Bhuapur. |
| 24. Nagla Manchi. | 57. Ghazipur. |
| 25. Shamspur. | 58. Khichripur. |
| 26. Gharaunda Nimka Khadar. | 59. Gharaunda Nimka Bangar (Patparganj). |
| 27. Nagli Razapur. | 60. Shakarpur Baramad. |
| 28. Chilla Sarauda Khadar. | 61. Kotla. |
| 29. Qarawalnagar <i>urf</i> Dharauti Kalan. | 62. Chilla Sarauda Bangar. |
| 30. Jivanpur Johripur. | 63. Dalupura. |
| 31. Mustafabad. | 64. Kondli. |
| 32. Mirpur Turk. | 65. Gharauli. |

SCHEDULE II.

ENACTMENTS IN FORCE IN THE DELHI PROVINCE WHICH
WILL NOT BE IN FORCE IN THE TERRITORY ADDED
TO THAT PROVINCE.

(See section 2.)

Year.	Number.	Short title.	Remarks.
1	2	3	4
		<i>Acts of the Governor-General of India in Council.</i>	
1887	XVI.	The Punjab Tenancy Act, 1887.	...
"	XVII.	The Punjab Land Revenue Act, 1887.	...
1900	XIII	The Punjab Alienation of Land Act, 1909.	...
		<i>Punjab Acts.</i>	
"	II.	The Punjab Land Preservation (<i>Chos</i>) Act, 1900.	...
1912	V.	The Colonization of Government Lands (Punjab) Act, 1912.	...
1913	I.	The Punjab Pre-emption Act, 1913.	...
"	II.	The Redemption of Mortgages (Punjab) Act, 1913.	...

SCHEDULE III.

ENACTMENTS IN FORCE IN THE UNITED PROVINCES OF AGRA
AND OUDH WHICH WILL CONTINUE TO BE IN FORCE IN THE
TERRITORY ADDED TO THE DELHI PROVINCE.

(See section 3.)

Year.	Number.	Short title	Remarks.
1	2	3	4
		<i>Acts of the Governor-General of India in Council.</i>	
1882	IV.	The Transfer of Property Act, 1882.	...
"	V.	The Indian Easements Act, 1882.	...
1891	VIII	An Act to extend the Indian Easements Act, 1882, to certain areas in which that Act is not in force.	...
		<i>United Provinces Acts.</i>	
1901	II.	The Agra Tenancy Act, 1901.	...
"	III.	The United Provinces Land Revenue Act, 1901.	...
1904	I.	The United Provinces General Clauses Act, 1904.	In so far as it applies to the Agra Tenancy Act, 1901, and the United Provinces Land Re- venue Act, 1901.

ACT NO. VIII. OF 1915.

The Assam Labour and Emigration (Amendment) Act, 1915.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of Governor-General on the 25th March, 1915.

An Act further to amend the Assam Labour and Emigration Act, 1901.

WHEREAS it is expedient further to amend the Assam Labour and Emigration Act, 1901 ;* It is hereby enacted as follows :—

Short title and com-
mencement.

1. (1) This Act may be called the Assam Labour and Emigration (Amendment) Act, 1915.

(2) It shall come into force at once, with the exception of section 7, which shall come into force on such day as the Governor-General in Council may, by notification in the *Gazette of India*, appoint in this behalf.

2. In section 2 (1) of the Assam Labour and Emigration Amendment of section Act, 1901* (hereinafter called the said Act), 2 (1), Act VI, 1901. the following amendments shall be made, namely :—

(a) After clause (c) the following clause shall be added, namely :—

“(cc) ‘Board’ means the Assam Labour Board constituted under Chapter VI-A.”

(b) To clause (e) the following Explanation shall be added, namely :—

“*Explanation.*—If any such native of India, having proceeded from a Native State into such territories, departs therefrom for the purpose aforesaid, he shall be deemed to emigrate within the meaning of this definition”

(c) After clause (n) the following clause shall be added, namely :—

“(nn) ‘native district’, in the case of a person who, having proceeded from a Native State into territories in which this Act is in force, emigrates therefrom, includes such Native State.”

* Act VI. of 1901.

(d) After clause (t) the following shall be added, namely :—
“and

(u) ‘Supervisor’ means a Supervisor appointed under this Act.”

Amendment of section
64, Act VI., 1901

3 For sub-section (1) of section 64 of the said Act, the following sub-sections shall be substituted namely :—

“(1) The Local Government may authorize any Superintendent to grant licenses to suitable persons to be Local Agents, for the purpose of representing employers within a specified area and for a specified period, in all matters connected with the supervision of garden-sardars under this Act.

(2) Any employer, or, on behalf of an employer, any association or firm duly authorized by general or special order of the Governor-General in Council for the purpose of this clause, may apply for a license as aforesaid, to be granted to a specified person.

(3) Every such application shall be made to the Board, and the Board shall forward it with its recommendation to the Superintendent, who may thereupon, if he thinks fit, grant a licence to such person.

and the existing sub-section (2) of the same section shall be re-numbered (4).”

4. In section 67 (1) of the said Act there shall be substituted for the words “the employer,” the word “his employer or the association or firm which has applied in respect of such Local Agent under section 64, sub-section (2)” and for the words from “or if” to the end of the sub-section, the following words, namely :—

Amendment of section
67, Act VI., 1901

“or if the District Magistrate is satisfied that the conduct of the Local Agent has been such as to render him unsuitable to hold a licence,”

Insertion of new Chapter VI-A in Act VI., 1901.

5. After section 116 of the said Act the following provisions shall be inserted, namely—

CHAPTER VI-A

Vide Vol IV, p. 60.

6. (1) The following portions of the said Act, are hereby repealed, namely, section 90 ; in section 91, the words "notwithstanding anything contained in section,90"and in clause (b) thereof, the words "or holding permits granted and countersigned under section 90," and the words "or of that section as the case may be;" and clause (a) of section 174

(2) In section 92 of the said Act for the words and figures "section 90 and 91" there shall be substituted the word and figures "section 91."

Repeal of Chapter III,
Act VI, 1901 Conse-
quential repeals and
amendments.

7. (1) The portions of the said Act specified in the Schedule to this Act are hereby repealed to the extent mentioned in the second column of the Schedule.

(2) The following amendments shall be made in the said Act, namely:—

(i) In the heading to Chapter V., and in section 92 there shall be substituted for the words and figures "Chapters III. and IV." the word and figures "Chapter IV."

(ii) In section 93 (2) there shall be substituted for the words and figures "Chapters II. to IV. inclusive," the words and figures "Chapter II. or IV." and for the words and figures "Chapters VI. to X." the words and figures "Chapters VI. (except Chapter VI-A) to X".

(iii) For section 172 of the said Act, the following section shall be substituted, namely:—

Vide Vol. IV pp. 84.

THE SCHEDULE

PORTIONS OF ACT VI. OF 1901 REPEALED.

[See section 7 (1).]

1	2
Chapter or Section.	Extent of repeal.
S. 2 (1) .	Clause (c) In clause (d) the words "contractor, 'sub-contractor, recruiter." In clause (l) the words and figures "section 34 or." Clauses (o) and (s).
S. 12 (1)	Clause (a) In clause (c) the words from "or if the labourer" to the end of the clause.
S. 12 (2)	The whole.
S. 12 (3)	The whole.
Chapter III.	The whole.
S. 65	The whole.
S. 91	Clause (a).
S. 163 (2)	In clause (b) the words "contractors or." Clause (f).
S. 163 (3)	In clauses (m) to (r) the word "contractors," wherever it occurs.
Ss. 165 to	The word "contractor," in both places where it occurs.
168	The whole.
S. 171	The words and figures "section 55 or."*
S. 175	The whole.

* Certain words after this repealed by Act 11 of 1915 have been omitted.

ACT NO. IX. OF 1915.

The Sea Customs (Amendment) Act, 1915.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL,

*Received the assent of the Governor-General on the 25th
March, 1915.*

An Act further to amend the Sea Customs Act, 1878.

WHEREAS it is expedient further to amend the Sea Customs Act, 1878;* It is hereby enacted as follows :—

Short title. 1. This Act may be called the Sea Customs (Amendment) Act, 1915.

2. In the proviso to section 37 of the Sea Customs Act, 1878,*
 Amendment of section 37, Act VIII. of 1878. for the words "on which application is made to clear such goods from the warehouse for home consumption" the following shall be substituted, namely, "of the actual removal of such goods from the ware: house in the case of goods delivered out of a warehouse for home consumption, and in the case of goods delivered out of a ware-house for removal under bond to be re-warehoused where the duty is paid on such goods without their being re-warehoused, the rate and valuation (if any) in force on the date on which duty is paid."

*Act VIII. of 1878.

ACT NO. XI. OF 1915.

Repealing and Amending Act, 1915.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor General on the 22nd
September, 1915.*

An Act to amend certain enactments and to repeal an enactment.

WHEREAS it is expedient that certain formal amendments should made in the enactments specified in the First Schedule ;

AND WHEREAS it is also expedient that the enactment specified in the Second Schedule, which is unnecessary, should be expressly and specifically repealed ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Repealing and Amending Act, 1915.

Amendment of certain enactments. 2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeal of certain words and figures in Act VIII. of 1915. 3. The enactment specified in the Second Schedule is hereby repealed to the extent mentioned in the fourth column thereof.

Savings. 4. This Act shall not affect the validity, invalidity effect or consequences of anything already done or suffered, or any right, title, obligation or liability, already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

1	2	3	4
Year	No.	Short title.	Amendments.
1867	XXV.	The Press and Registration of Books Act, 1867	In section 21, after the word "Books" the words "or papers" shall be inserted.
1882	IV.	The Transfer of Property Act, 1882.	In the last paragraph of section 59, and in clause (c) of section 69 of the said Act, for the words "and Akyab" and for the words "or Akyab" the words "Akyab and in any other town which the Governor-General in Council may, by notification in the Gazette of India specify in this behalf" and the words "Akyab or in any other town which the Governor-General in Council may by notification in the Gazette of India, specify in this behalf", shall be substituted, respectively.
1887	IX.	The Provincial Small Cause Courts Act, 1887.	In section 8, Sub-section (1), for the words "an Additional Judge" the words "Additional Judges" shall be substituted, and in sub-section (2) and (3) of the same section for the words "the Additional" the words "an Additional" shall be substituted, and in sub-section (4) of the same section, before the word "additional" the word "senior" shall be inserted *
1913	VII.	The Indian Companies Act, 1913 *	In section 246, after the word "company" where that word occurs for the last time in sub-section (1), the following shall be added — "and shall make rules providing for all matters relating to the winding up of companies which, by this Act, are to be prescribed."

* Certain entry after this repealed by Act 6 of 1924 has been omitted.

THE SECOND SCHEDULE.

REPEALS.

(See section 3.)

1	2	3	4
Year.	No.	short title.	Extent of repeal.
1915	VIII.	The Assam Labour and Emigration (Amendment) Act, 1915.	In the Schedule the words and figures "s. 174, clause (a)."

ACT NO. XIII. OF 1915

The North-West Frontier Constabulary Bill 1915.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 1st
October, 1915*

*An Act to provide for the regulation of the Frontier Constabulary
in the West Frontier Province.*

WHEREAS it is expedient to provide for the regulation of the Frontier constabulary in the North-West Frontier Province, It is hereby enacted as follows:—

Short title, extent, application and commencement.

1. (1) This Act may be called the North West Frontier Constabulary Act, 1915 ;

(2) It extends to the whole of the North West Frontier Province, and applies also to every member of the Constabulary, wherever he may be serving ; and

(3) It shall come into force on such day as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "member of the Constabulary" means a person other than a person appointed by the Local Government who, at the commencement of this Act, is serving in the Frontier Constabulary or who after the commencement of this Act, has been appointed to the Frontier Constabulary under this Act and has signed a recruiting-roll on which the conditions of service contained in the Schedule are set forth :

Provided that every person who has for the space of six months been in the receipt of pay as a member of the Frontier Constabulary and been borne on the rolls or the Frontier Constabulary shall be deemed to be a member of the Constabulary, notwithstanding that he has not signed the said recruiting-roll.

(b) "Commandant" means a person appointed by the Local Government to be a Commandant of the Frontier Constabulary .

(c) "active service" means service against hostile tribes, raiders or other hostile persons, or persons co-operat-

ing with or assisting such tribes, raiders or hostile persons

- (d) the expressions "assault," "criminal force," "fraudulently," "reason to believe" and "voluntarily causing hurt" have the meanings assigned to them, respectively, in the Indian Penal Code.*

3. The Local Government may continue to maintain a force, to be called the Frontier Constabulary, for the better protection and administration of the external frontier of British India within the limits of or adjoining the North-West Frontier Province or any part thereof.

4. The Frontier Constabulary shall be constituted in such manner, and the members of Constabulary shall receive such pay, pension, and other remuneration, as shall, from time to time, with the previous sanction of the Governor-General in Council, be ordered by the Local Government.

5. (1) The Local Government may appoint any person to be commandant, and may appoint other persons to be District Constabulary Officers or Assistant Constabulary Officers of the Frontier Constabulary, or of any part thereof, constituted in any one or more districts.

(2) The Commandant and every other officer so appointed shall possess, and may exercise, such power and authority over the subordinate officers and members of the Constabulary at any time, under his command as is provided by or under this Act.

6. The appointment of all officers and men of the Frontier Constabulary, other than those mentioned in sub-section (1) of section 5, shall rest with the Commandant and the District Constabulary Officer who shall respectively exercise such powers in such manner as may be prescribed by rules made under this Act.

7. (1) The superintendence of, and control over the Frontier Constabulary shall vest in the Local Government; and the Frontier Constabulary shall be administered by the Commandant and the District Constabulary Officer in accordance with the provisions of this Act and of any rules made thereunder.

(2) The District Constabulary Officer and the Constabulary of a district shall be under the general control and direction of the Deputy Commissioner of the district

(3) In exercising authority under sub-section (2), the Deputy Commissioner shall be governed by such rules and orders as the Local Government may make in this behalf

8. (1) Every member of the Constabulary who commits More heinous offences. any of the following offences that is to say .—

(a) begins, excites, causes or conspires to cause or joins in any mutiny; or being present at any mutiny, does not use his utmost endeavours to suppress it, or knowing, or having reason to believe in, the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State does not, without delay, give information thereof to his commanding or other superior officer; or,

(b) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer whether on or off duty knowing or having reason to believe him to be such : or,

(c) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge, or which it is his duty to defend; or,

(d) directly or indirectly holds correspondence with, or assists or relieves, any person in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge, or,

who, while on active service—

(e) disobeys the lawful command of his superior officer; or,

(f) deserts the service; or,

(g) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave; or,

(h) without authority, leaves his commanding officer, or his post or party, to go in search of plunder; or,

(i) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or,

(j) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard or, without authority, breaks into any house or any other place for plunder, or plunders, destroys, or damages any property of any kind; or,

(k) intentionally causes or spreads a false alarm in action or in camp, garrison, or quarters; or,

(l) displays cowardice in the execution of his duty ;
shall be punishable with transportation for life or for a term of not

less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months' pay, or with fine to that extent in addition to such sentence of transportation or imprisonment, as the case may be, as may be passed upon him under this section.

(2) If any member of the Constabulary while on active service with a force beyond the limits of British India, is charged with committing any offence described in clause (c), clause (d), or clause (f), of sub-section (1), or the offence of culpable homicide amounting to murder, he may be summarily tried for such offence by the Political Officer accompanying the force, sitting with two other officers appointed by the Political Officer for this purpose.

(3) Every officer appointed under sub-section (2) shall be either—

- (a) a British officer, that is to say, a person holding a commission in His Majesty's and forces, or,
- (b) a civil officer, of gazetted rank, or,
- (c) a person appointed under section (5) :

Provided that, if circumstances permit, not less than one such officer shall be a Constabulary Officer appointed under section 5 ;

(4) If one or both of the officers sitting with the Political Officer concur with him in finding the accused guilty, and the Political Officer so directs, the accused shall be forthwith shot to death.

9. Every member of the Constabulary
Less heinous offences. who commits any of the following offences,
that is to say,—

- (a) is in a state of intoxication when on or after having been warned for, any duty, or on parade or on the line of march ; or,
- (b) strikes or attempts to force any sentry ; or,
- (c) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge, or without proper authority, releases any prisoner or person placed under his charge, or negligently suffers any such prisoner or person to escape ; or,
- (d) being under arrest or in confinement, leaves his arrest or confinement, before he is set at liberty by proper authority ; or,
- (e) is grossly insubordinate or insolent to his superior officer in the execution of his office ; or,
- (f) refuses to superintend or assist in the making of any field work or other work of any description ordered to be made either in quarters or in the field ; or,

- (g) strikes or otherwise ill uses any member of the Constabulary subordinate to him in rank or position ; or,
- (h) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made as far as possible, to the injured person or to report the case to the proper authority ; or,
- (i) designedly or through neglect injures or losses, or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements or Frontier Constabulary necessities, or any such articles entrusted to him or belonging to any other person ; or,
- (j) malingers or feigns or produces disease or infirmity in himself or intentionally delays his cure, or aggravates his disease or infirmity ; or,
- (k) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person ; or,
- (l) does not when called upon by his superior officer so to do or upon ceasing to be a member of the Constabulary, forthwith deliver up, or duly account for, all or any arms, ammunition, stores, accoutrements, appointments or other property issued or supplied to him or in his custody or possession, as such member of the Constabulary, or,
- (m) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men ; or to Government, or to any member of, or any person attached to, the Constabulary, or who through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid , or,
- (n) absents himself without leave, or without sufficient cause overstays leave granted to him , or,
- (o) is guilty of any act or omission which though not specified in the Act, is prejudicial to good order and discipline ; or,

who, while not on active service,—

- (p) disobeys the lawful command of his superior officer ; or,
- (q) deserts the service ; or,
- (r) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave ; or,

(j) quits his guard, picquet, party, or patrol without being regularly relieved or without leave, or,
 (f) plunders, destroys or damages any property of any kind ;
 or,
 (u) displays cowardice in the execution of his duty,
 shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay or with both.

10. (1) The Commandant or the District Constabulary Officer may, subject to any rules made under this Act, award in lieu of or in addition to, suspension or dismissal, any of the following punishments to any member of the Constabulary who is, in the opinion of the Commandant or the District Constabulary Officer, as the case may be, guilty of disobedience, neglect of duty, or remissness in the discharge of any duty, or of rendering himself unfit to discharge his duty, or of other misconduct in his capacity as such member of the Constabulary, that is to say,—

- (a) reduction in rank and emoluments ;
- (b) fine to any amount not exceeding one month's pay and allowances ;
- (c) confinement to quarters for a term not exceeding one month ,
- (d) confinement in the quarter-guard for not more than twenty-eight days with or without punishment-drill or extra guard, fatigue or other duty ; and
- (e) removal from any office of distinction or special emolument in the Constabulary.

(2) The Commandant or the District Constabulary Officer, or an officer, not being below the rank of Subadar, commanding a separate detachment or an outpost, or in temporary command at the head-quarters of a district during the absence of the Commandant and the District Constabulary Officer, may, without a formal trial, award to any member of the Constabulary who is subject to his authority any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say,—

- (a) confinement for not more than seven days in the quarter guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance ; and
- (b) punishment drill, or extra guard, fatigue or other duty, for not more than thirty days, with or without confinement to quarters.

(3) Any one of the punishments described in sub-section (1) or sub-section (2) may be awarded separately, or in combination with any one or more of the said punishments, respectively.

11. (1) Every person sentenced under this Act to imprisonment may be dismissed from the Frontier Constabulary, and shall be further liable to forfeiture of pay and allowances due, as well as of medals and decorations received, and the public money due to him.

Place of imprisonment and liability to dismissal on imprisonment.

(2) Every such person shall, if he is so dismissed, be imprisoned in the nearest prison or such other prison as the Local Government may, by general or special order, direct; but if he is not also dismissed from the Frontier Constabulary, he may, if the Court or the Commandant so directs, be confined in the quarter-guard or such other place as the Court or the Commandant may consider suitable.

12. The following penal deductions may be made from the pay and allowances of a member of the Constabulary, that is to say,—

Deductions from pay and allowances

- (a) all pay and allowances for every day of absence either on desertion or without leave, and for every day of imprisonment awarded by a Criminal Court or of confinement awarded by an Officer exercising authority, under section 10;
- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted;
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the proper Medical Officer attending on him at the hospital to have been caused by an offence under this Act committed by him,
- (d) all pay and allowances ordered to be forfeited under section 10 and
- (e) any sum required to make good such compensation for any expenses caused by him, or for any loss of, or damage or destruction done by him to, any arms, ammunition, equipment, clothing, instruments, Frontier Constabulary necessities or decoration, or to any buildings or property, as may be awarded by the Commandant or the District Constabulary Officer.

13. Whenever any weapon or part of a weapon or ammunition forming part of the equipment of a company or other similar unit is lost or stolen the Commandant may, after making such inquiry as he thinks fit,

Collective fines.

impose a collective fine upon the subordinate officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

Resignation and withdrawal from the Constabulary **14.** No member of the Constabulary shall be at liberty to—

- (a) resign his appointment during the term of his engagement, except before the expiration at the first three months of his service ; or
- (b) withdraw himself from all or any of the duties of his appointment, without the permission in writing (to be previously obtained) of the Commandant or the District Constabulary Officer or other officer authorised by the Commandant to grant such permission.

15. (1) It shall be the duty of every member of the Constabulary promptly to obey and to execute all orders and warrants lawfully issued to him by any competent authority, to detect and bring offenders to justice, and to apprehend all persons whom he is legally authorised to apprehend, and for whose apprehension sufficient grounds exist.

(2) Every member of the Constabulary shall be liable to serve without and beyond, as well as within, the limits of British India.

16. The Local Government may, by general or special order, confer or impose upon any member of the Constabulary any of the powers or duties conferred or imposed on a police-officer of any class or grade by any enactment for the time being in force.

17. In any suit or proceeding against any member of the Constabulary for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(2) Such plea may be proved by the production of the warrant or order directing the act, and, if it is so proved, such member of the constabulary shall thereupon be discharged from liability in respect of the act so done by him notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(3) All suits and proceedings (whether civil or criminal) against any person which may lawfully be brought for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules thereunder, shall

be commenced within three months after the act complained of was committed and not otherwise, and notice in writing of such suit or proceeding and of the cause thereof shall be given to the defendant or his superior officer one month at least before the commencement of the suit or proceeding

18 Notwithstanding anything contained in the Code of criminal Procedure, 1858,* the Local Government may declare that the Court of any Deputy Commissioner, and no other Court, shall be deemed to be the Court of Session for the disposal of cases, or any class of cases, arising under this Act

19 Any person invested with any powers under the Code of Criminal Procedure, 1898,* for the disposal of any case under this Act within the limits of British India shall, in relation to any case arising under this Act beyond such limits, have the same power and be subject to the same conditions as to appeal or otherwise as if such case had arisen such limits

20 The Local Government, subject to the control of the Governor General in Council, may, by notification in the Official Gazette, apply, with such modifications (if any) as it may think fit any of the provisions of this Act and the rules thereunder to the Border Militia or to any persons for the time being enrolled for similar service on their external frontier of British India.

21. The Local Government may, by notification in the official Gazette make rules—

- Power to make rules
- (a) regulating the functions and powers of the Deputy Commissioner, Commandant, the District Constabulary Officer and the Assistant Constabulary Officer, respectively, under this Act;
 - (b) regulating, subject to the provisions of section 4, the classes and grades of, and the remuneration to be paid to the officers and men of, and the conditions of service in, the Frontier Constabulary;
 - (c) fixing the period of service for members of the Constabulary in any district or local area,
 - (d) regulating the award of minor punishments to Constabulary Officers under the powers conferred by section 10, and providing for appeals from, or the revision of orders under, that section, or the remission of fines imposed under that section, and the remission of deductions made under section 12;

* Act V, of 1898.

(e) regulating the several or collective liability of members of the Constabulary in the case of the loss or theft of weapons and ammunition ; and

(f) generally, for the purpose of carrying into effect the provisions of this Act

Repeal.

22 The North-West Border Military Police Act, 1904,* is hereby repealed.

THE SCHEDULE

Conditions of Service.

[See section 2, clause (a)]

AFTER you have served for such periods as the Local Government may have prescribed in this behalf in the Frontier Constabulary maintained under the North-West Frontier Constabulary Act, 1915, you may, at any time, when not on active service, apply for your discharge, through the officer to whom you may be subordinate to the Commandant, or to the District Constabulary Officer of the district in which you may be serving, and you will be granted your discharge after three months from the date of your application, unless your discharge would cause the vacancies in the Frontier Constabulary to exceed one-tenth of the sanctioned strength, in which case you shall be bound to remain until this objection is waived by competent authority or removed. But when on active service you shall have no claim to a discharge, and you shall be bound to remain to do your duty until the necessity for retaining you in the Frontier Constabulary ceases, when you may make your application in the manner hereinbefore prescribed.

Provided that, if you wish to withdraw from the Frontier Constabulary, you may resign at any time before the expiration of the first three months of your service, but not afterwards until the completion of the period prescribed as aforesaid ;

Provided, also, that the Commandant or the District Constabulary, Officer may, if he thinks fit, allow you to resign at any time on your giving three months' notice of your wish to do so.

Signature of the member of the Constabulary in acknowledgment of the above having been read to him.	}	A B.
---	---	------

Signed in my presence after I had ascertained that A. B. understood the purport of what he signed.	}	C. D.
--	---	-------

Commandant or District
Constabulary Officer.

* Act IV. of 1904.

ACT NO. XVI, OF 1915.

The Benares Hindu University Act, 1915

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the
1st October, 1915.*

*An Act to establish and incorporate a teaching and residential
Hindu University at Benares.*

WHEREAS it is expedient to establish and incorporate a teaching and residential Hindu University at Benares, and to dissolve the Hindu University Society, a society registered under the Societies Registration Act, 1860,* and to transfer to and vest in the said University all property and rights now vested in the said Society, It is hereby enacted as follows :—

Short title and com-
mencement

1 (1) This Act may be called the Benares Hindu University Act, 1915.

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the Gazette of India, direct.

Definitions

2 In this Act, unless there is anything repugnant in the subject or context,

- (a) "College" means any college or institution maintained or admitted to privileges by the University ;
- (b) "Council" means the University Council ;
- (c) "Court" means the University Court ;
- (d) "Faculty" means a Faculty of the University ;
- (e) "Regulation" means the Regulations of the University for the time being in force ;
- (f) "Senate" means the Senate of the University ;
- (g) "Statutes" means the Statutes of the University for the time being in force ; and
- (h) "University" means the Benares Hindu University.

3. (1) The First Chancellor, Pro Chancellor and Vice-Chancellor who shall be the persons specified in this behalf by a notification of the Governor-General in Council in the Gazette of India, and the persons indicated in Schedule I, as members of the Court and the Senate

* Act XXI of 1860.

and all persons who may hereafter become or be appointed as such officers or members, so long as they continue to hold such office, or membership, shall be constituted a body corporate by the name of the Benares Hindu University.

(2) The University shall have perpetual succession and a common Seal, and shall sue and be sued by the name first aforesaid.

(3) The University shall be deemed to have been incorporated for the purposes, among others, of making provision for imparting education, literary, artistic and scientific, as well as agricultural, technical, commercial and professional, of furthering the prosecution of original research and of giving instruction in Hindu theology and religion and of promoting the study of literature, art, philosophy, history, medicine and science, and of imparting physical and moral training.

University open to all castes and creeds save as regards religious instruction.

4. (1) The University shall, subject to the Regulations, be open to persons of all classes, castes and creeds, but provision shall be made for religious instruction and examination in Hindu religion only.

(2) The Court shall have power to make Statutes providing that instruction in Hindu religion shall be compulsory in the case of Hindu students, and shall also have power to make special arrangements for the religious instruction of Jain or Sikh students from funds provided for this purpose.

5. The Governor General of India for the time being shall be the Lord Rector of the University; and such persons as may be specified in the Statutes shall be the Patrons and Vice-Patrons thereof.

Visitor.

6. (1) The Lieutenant-Governor for the time being of the United Provinces of Agra and Uduh shall be the Visitor of the University.

(2) The Visitor shall have the right of inspecting the University and its Colleges generally, and for the purpose of seeing that the proceedings of the University are in conformity with this Act and the Statutes and Regulations. The Visitor may, by order in writing, annul any such proceeding which is not in conformity with this Act and the Statutes and Regulations :

Provided that, before making any such order, he shall call upon University to show cause why such an order should not be made, and if any cause is shown within a reasonable time, shall consider the same.

Authorities and officers of the University **7** The following shall be the authorities and officers of the University,—

- I.—The Chancellor,
- II.—The Pro-Chancellor,
- III.—The Vice Chancellor,
- IV.—The Pro Vice-Chancellor,
- V.—The Court,
- VI.—The Council,
- VII.—The Senate,
- VIII.—The Syndicate,
- IX.—The Faculties and their Deans,
- X.—The Registrar,
- XI.—The Treasurer, and
- XII.—Such other authorities and officers as may be provided for by the Statute.

Powers and duties of officers terms of office and filling of casual vacancies. **8** Subject to the provisions of this Act, the powers and duties of the officers of the University, the term for which they shall hold office and the filling up of casual vacancies in such offices, shall be provided for by the Statutes.

9. (1) The Court shall be the supreme governing body of the University in administrative matters, and shall have power to review the acts of the Senate (save when the Senate has acted in accordance with powers conferred on it under this Act, the Statutes or the Regulations), and shall exercise all the powers of the University not otherwise provided for by this Act or the Statutes.

“(2) No person not being a Hindu shall become or be appointed a member of any Court other than the first Court unless he has been a member of the first Court”*

The Council. **10. (1)** The Council shall be the executive body of the Court, and shall, in addition to *ex officio* members, consist of not more than thirty elected members :

Provided that five members, other than *ex officio* members, shall be members of the Senate elected by the Senate.

(2) The Council shall exercise such powers and perform such duties as may be vested in it by the Statutes.

11 (1) The Senate shall be the academic body of the University and subject to the Act, the Statutes and Regulations, shall have entire charge of the organization of instruction in the University and the Colleges, the courses of study and the examination and discipline of students and the conferment of ordinary and honorary degrees.

* The words within quotations have been substituted by Act 3 of 1922.

(2) The Senate shall ordinarily consist of not less than fifty members.

The Syndicate.

12. (1) The Syndicate shall be the executive body of the Senate, and shall consist of seventeen members :

Provided that ten at least of the members of the Syndicate, other than *ex-officio* members, shall be University Professors or Principals or Professors of Colleges.

(2) The Syndicate shall exercise such powers and perform such duties as may be vested in it by the Statutes.

13. (1) The accounts of the University shall, once at least in every year and at intervals of not more than fifteen months, be audited by auditors appointed by the Court :

Provided that no person shall be appointed an auditor in the exercise of this power unless he is qualified in accordance with the provisions of the Indian Companies Act, 1913,† to audit accounts of companies under that Act.

(2) The accounts, when audited, shall be published in the Gazette of India, and a copy of the accounts, together with the auditor's report, shall be submitted to the Visitor.

14. The University shall invest and keep invested in securities in which trust funds may be invested, in accordance with the provisions of the law relating to trusts in British India, a sum of fifty lakhs of rupees as a permanent endowment to meet the recurring charges of the University other than charges in respect of scholarships, prizes and rewards

Provided that—

(1) any Government securities as defined by the Indian Securities Act, 1886‡ which may be held by the University shall, for the purpose of this section, be reckoned at their face-value ; and

(2) the aforesaid sum of fifty lakhs shall be reduced by such sum as, at the commencement of this Act, the Governor-General in Council shall, by order in writing, declare to be the total capitalised value, for the purposes of this section,—

(a) of all permanent recurring grants of money which have been made to the University by any Indian Prince or Chief ; and

(b) of the total income accruing from immovable property which has been transferred to the University.

† Act VIII. of 1913.

‡ Act XIII. of 1886.

15. (1) The Central Hindu College, Benares, shall, from such date as the Governor-General in Council may by notification in the Gazette of India, appoint in this behalf, be deemed to be a college maintained by the University, and the University may found and maintain other colleges and institutions in Benares for the purposes of carrying out instruction and research.

(2) With the approval of the Senate and the sanction of the Visitor, and subject to the Statutes and Regulations, the University may admit colleges and institutions in Benares to such privileges of the University, subject to such conditions, as it thinks fit.

16. The degrees, diplomas, certificates and other academic distinctions granted by the University shall be recognized by the Government to the same extent and in the same manner as the corresponding degrees, diplomas, certificates and other academic distinctions granted by any other University incorporated by an Act of the Governor-General in Council.

17. (1) Subject to the provisions of this Act, the Statutes may provide for any or all of the following matters, namely —

- (a) the constitution, powers and duties of the Court, the Council, the Senate, the Syndicate and such other bodies as it may be deemed necessary to constitute from time to time ;
- (b) the election and continuance in office of the members of the said bodies, including the continuance in office of the first members and the filling of vacancies of members and all other matters relative to those bodies for which it may be necessary or desirable to provide ;
- (c) the appointment, powers and duties of the necessary officers of the University ;
- (d) for the instruction of Hindu students in Hindu religion ; and
- (e) all other matters relating to the administration of the University.

(2) The first Statutes shall be those set out in Schedule I.

(3) The Court may, from time to time, make new or additional Statutes, or may amend or repeal the Statutes.

(4) The Council shall have power to draft and propose to the Court Statutes to be made by the Court, and it shall be the duty of the Court to consider the same.

(5) All new Statutes or additions to the Statutes or amendments or repeals to Statutes other than Statutes providing for the instruction of Hindu students in Hindu religion, shall require the previous approval of the Visitor, who may sanction, disallow, or remit for further consideration :

Provided that no Statute making a change in the constitution of the Court, the Council, the Senate or the Syndicate as provided for in the first Statutes, shall be made without the previous sanction of the Governor-General in Council

18. (1) Subject to the provisions of this Act and the Statutes, the Regulations may provide for any or all of the following matters, namely :—

- (a) the payment of fees to the University and their amount ;
- (b) the admission of students to the University and their examination ;
- (c) the tenure of office and terms and manner of appointment and the duties of the examiners and examining boards ;
- (d) the discipline to be enforced in regard to the graduates and undergraduates ;
- (e) the degrees, diplomas, certificates and other academic distinctions to be awarded by the University, the qualifications for the same, and the means to be taken relating to the granting and obtaining of the same ;
- (f) the withdrawal of degrees, diplomas, certificates and other academic distinctions ;
- (g) the removal from membership of the University of graduates and undergraduates ; and
- (h) all such other subjects as are required or authorised by the Act or Statutes to be prescribed by means of Regulations

(2) The first Regulations shall be framed as directed by the Governor-General in Council, and shall receive his previous approval.

(3) The Senate from time to time may make new or additional Regulations, or amend or repeal Regulations

(4) The Syndicate shall have power to draft and propose to the Senate Regulations to be made by the Senate, and it shall be the duty of the Senate to consider the same.

(5) All new Regulations or additions to the Regulations, or amendments or repeals to Regulations, shall require the previous approval of the Visitor, who may sanction, disallow or remit for further consideration :

Provided that no Regulation making a change in the first Regulations as to the admission of students to the University shall be made without the previous sanction of the Governor-General in Council.

19. (1) If at any time the Governor-General in Council is of opinion that special reasons exist which make the removal of any member of the teaching staff desirable in the interest of the University, or that as a special measure the appointment of a

certain examiner or examiners to report to him is desirable to maintain the standard of University examinations, or that the scale of staff of the University is inadequate, or that in any other respect the affairs of the University are not managed in the furtherance of the objects and purposes of the University or in accordance with this Act and the Statutes and Regulations, he may indicate to the Council any matter in regard to which he desires explanation and call upon that body to offer such explanation as it may desire to offer, with any proposals which it may desire to make, within such time as he may prescribe.

(2) If the Council fails to offer any explanation within the time prescribed, or offers an explanation or makes proposals which in the opinion of the Governor-General in Council, is or are unsatisfactory, the Governor-General in Council may issue such instructions as appear to him to be necessary and desirable in the circumstances of the case, and the Court shall give effect to such instructions.

20. (1) From the commencement of this Act, the Hindu University Society shall be dissolved, and all property, moveable and immoveable, and all rights, powers and privileges of the Hindu University Society which, immediately before the commencement of this Act, belonged to, or were vested in, the said Society, shall vest in the University and shall be applied to the objects and purposes for which the University is incorporated

Dissolution and transfer of property of the Hindu University Society.

(2) From the commencement of this Act, all debts and liabilities of the said Society shall be transferred and attached to the University, and shall thereafter be discharged and satisfied by the University.

(3) Any will, deed or other document, whether made or executed before or after the commencement of this Act, which contains any bequest, gift or trust in favour of the Central Hindu College or the said Society shall, on the commencement of this Act, be construed as if the University were therein named, instead of the said College or Society.

SCHEDULE I.

FIRST STATUTES OF THE UNIVERSITY

[See sections 3 and 17 (2).]

1. (1) In these Statutes—

Definitions.

“The Act” means the Benares Hindu University Act, 1915.

(2) All words and expressions used herein and defined in the Act shall be deemed to have the meanings respectively attributed to them by the Act.

Membership of the University. 2. (1) The following persons shall be members of the University, namely :—

- (i) The officers of the University.
- (ii) The members of the University.
- (iii) The members of the teaching staff.
- (iv) The Graduates.
- (v) The Under-graduates.

(2) Membership of the University shall continue so long only as one at least of the qualifications above enumerated shall continue to be possessed by the individual member.

Patrons and Vice-Patrons. 3. (1) The following persons shall be the Patrons of the University, namely :—

- (i) all heads of local administrations in British India, other than the Lieutenant-Governor of the United Provinces of Agra and Oudh,
- (ii) such Indian Princes and Chiefs as the Lord Rector may, of his own motion, or on the recommendation of the Court from time to time, appoint

(2) The Lord Rector may, on his own motion, or on the recommendation of the Court, appoint such persons, as he may think fit, to be Vice-Patrons of the University.

The Chancellor 4. (1) The successors to the first Chancellor shall be elected by the Court.

(2) The Chancellor shall hold office for three years.

Powers of the Chancellor. 5 (1) The Chancellor shall, by virtue of his office, be the head of the University.

(2) The Chancellor shall, if present, preside at the Convocation of the University for conferring degrees, and at all other meetings of the Court.

(3) The Chancellor may, on the recommendation of the Senate, appoint Rectors, being persons of eminent position or attainment.

The Pro-Chancellor. 6 (1) The successors to the first Pro-Chancellor shall be elected by the Court from among its own members.

(2) The Pro-Chancellor shall hold office for one year.

(3) Casual vacancies in the office of the Pro-Chancellor shall be filled up by the Chancellor on the recommendation of the Council. The person so appointed shall hold office till the next annual election.

7. The Pro Chancellor may, in the absence of the Chancellor or pending a vacancy in the office of Chancellor, exercise the functions of the Chancellor, except the conferring of degrees, and preside at any meetings of the Court.

Powers of the Pro-Chancellor

8. (1) The successors to the first Vice-Chancellor shall be elected by the Court from among its own members, such appointment shall be subject to approval by the Visitor.

(2) The Vice-Chancellor shall hold office for three years.

(3) Casual vacancies in the office of Vice-Chancellor shall be filled up by election by the Court subject to approval by the Visitor. Until the election of a new Vice-Chancellor, the Pro-Vice Chancellor shall perform the duties of the Vice-Chancellor.

9. (1) The Vice Chancellor shall take rank in the University next to the Chancellor and the Pro-Chancellor, and shall be *ex-officio* Chairman of the Council, the Senate and the Syndicate. He shall be the principal Executive and Academic Officer of the University, and shall, in the absence of the Chancellor preside at the Convocation and confer degrees.

(2) It shall be the duty of the Vice Chancellor to see that the Act, the Statutes and the Regulations are faithfully observed.

(3) The Vice-Chancellor shall have power to convene meetings of the Court, the Council, the Senate and the Syndicate, and to perform all such acts as may be necessary to carry out or further the provisions of the Act, the Statutes and the Regulation.

(4) If any emergency arises which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, the Vice Chancellor shall take such action as he deems necessary, and shall report the fact to the authority which in the ordinary course would have dealt with the matter.

10. (1) The Pro-Vice-Chancellor shall be elected by the Court. The appointment shall be subject to approval by the Visitor.

(2) He shall hold office for such period and under such conditions as shall, from time to time, be determined by the Court.

(3) Casual vacancies in the office of the Pro-Vice Chancellor shall be filled up by the Vice Chancellor with the approval of the Chancellor and the Visitor. The person so appointed shall hold office till the next meeting of the Court.

11. The Pro-Vice-Chancellor shall be *ex-officio* Secretary of the Court and the Council. He shall be the executive assistant of the Vice-Chancellor in all matter effecting the discipline of the graduates and under-graduates.

12. (1) The Registrar shall be a whole-time paid officer of the University, and shall be appointed by the Council. He shall be *ex-officio* Secretary of the Senate and the Syndicate. He shall hold office for a term of five years.

(2) The Registrar may be a member of the Senate, but shall not be a member of the Syndicate

(3) It shall be the duty of the Registrar—

- (a) to be the custodian of the records, common Seal and such other property of the University as the Syndicate shall commit to his charge ;
- (b) to act as Secretary to the Senate and the Syndicate and to attend, as far as possible, all meetings of the Senate, Syndicate, Faculties, and any committees appointed by the Senate, the Syndicate, or the Faculties, and to keep minutes thereof,
- (c) to conduct the official correspondence of the Senate, and the Syndicate,
- (d) to issue all notices convening meetings of the Senate, Syndicate, Faculties, Boards of Studies, Boards of Examiners, and of any Committees appointed by the Senate, the Syndicate, the Faculties or any of the Boards ;
- (e) to arrange for and superintend the examinations of the University at Benares ; and
- (f) to perform such other work as may, from time to time be prescribed by the Syndicate.

13. (1) The Treasurer shall be appointed by the Court. He shall hold office for the term of one year.

(2) Casual vacancies in the office of Treasurer shall be filled up by election by the Council. The person so appointed shall hold office for the unexpired period of office of the person in whose place he is elected.

(3) The receipt of the Treasurer for any money payable to the University shall be sufficient discharge for the same.

14. (1) Subject to the provisions of the Act, and save as hereinafter provided in this Statute, the Court shall consist of the following persons, namely :—

Class I.—Ex-officio Members, the Chancellor, the Pro-Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor for the time being.

Class II.—Donors and their representatives :—

- (a) Every Indian Prince or Chief contributing a donation of three lakhs of rupees or upwards, or transferring property of the like value, shall be a life member from the date of the receipt of the donation or of the transfer, and after his decease, his successor for the time being holding his position as such Prince or Chief shall be a life-member.

- (b) Every person contributing to the University a donation of one lakh of rupees or upwards, or transferring property of the like value, shall be a life-member from the date of the receipt of the donation or of the transfer.
- (c) Every person contributing to the University a donation of Rs 10,000 or upwards, or transferring property of the like value, shall be a member for a period of 10 years from the date of the receipt of his donation or of the transfer.
- (d) Every person who is a life-member in virtue of clause (a) may, from time to time, nominate one member. The member so nominated shall continue in office for such period as the nominator may specify to the Registrar, provided that his membership shall determine on the death of the nominator.
- (e) Every person who is a life-member in virtue of clause (b) may, by notice in writing to the Registrar, nominate one member to hold office for a period of five years.
- (f) Every donor who makes a bequest of Rs 10,000 or upwards or of property of the like value may, by or under his will, nominate one person who shall be a member for a period of five years from the receipt of the bequest.
- (g) Every Indian Prince or Chief who makes a permanent annual grant of money to the University shall, subject to the provisions of clause (j), have the same rights as to membership of, and representation on, the Court as if he had been a donor of such sum as represents the capital value ascertained at a rate of interest of $3\frac{1}{2}$ per cent. of such annual grant.
- (h) Every other grantor to the University of any annual grant of money, the payment of which is secured by mortgage of immoveable property affording sufficient security for such grant within the provisions of the *explanation* to section 66 of the Transfer of Property Act, 1882,* and effected by duly executed instrument in a form approved by the Council, shall subject to the provisions of clause (j) have the same rights as to membership of, and representation on, the Court as if he had been a donor of a sum calculated in the manner prescribed in clause (g).
- (i) The amounts of donations specified in clauses (a), (b), (c), (f) and in Class III (b) may, for the purpose of qualifying the donors within those provisions, be made up partly of money or of capitalised grants as

provided in clauses (g) and (h), or of property, or partly of any two or more of these.

- (r) When an annual grant is not fully paid up or falls in arrears, the grantor shall not be entitled to exercise any of the privileges, conferred on him by any of the foregoing clauses of this Statute, unless and until the said arrears are paid up.

Class III.—Elected members :—

(a) Ten persons to be elected by the registered graduates of the University from such date as the Court may fix.

(b) Thirty persons to be elected by registered donors of R 500 or upwards :

Provided that, whenever the number of such donors, falls below fifty there shall be no election until the number of such donors again attains or exceeds fifty.

(c) Ten persons to be elected by the Senate.

(d) Fifteen representatives of Hindu religion and Sanskrit learning to be elected by the Court.

(e) Ten persons to be elected by the Court to represent Jain and Sikh communities.

(f) Ten persons to be elected by the Court to represent the learned professions.

(g) Such other person, not exceeding twenty in number, as may be elected by the Court.

(2) The foregoing provisions of this Statute shall, as far as may be, be applicable to the first Court :

Provided that, in the case of the first Court, the ten persons specified in group (c) of Class III. shall be appointed by Vice-Chancellor, with the approval of the Governor-General in Council.

(3) When any electoral body entitled to elect a member or members fails to do so within the time prescribed by the Court, the Court may appoint any qualified person of the class from which such electoral body was entitled to elect.

(4) Save when otherwise expressly provided, members shall hold office for five years :

Provided that as nearly as may be one-fifth of the total number of the members of the first Court in each of the groups of Class III. shall retire by ballot at the end of each year for the first four years.

(5) All casual vacancies among the appointed or elected members shall be filled, as soon as conveniently may be, by the person or body who appointed or elected the member whose place has become vacant, and the person appointed or elected to a casual vacancy shall be a member for the residue of the term for which

the person in whose place he is appointed or elected was a member.

15. The Court shall exercise control over the Senate through the Council and not otherwise, and over the
Exercise of control by the Court. Faculties through the Council and Senate and not otherwise, and over the Council by means of Statutes and Resolutions passed at a meeting of the Court and not otherwise.

16. (1) As soon as may be after the commencement of the Act,
Meetings of the Court. the first Court shall assemble at such place and time as the Chancellor may direct in order to make the necessary appointments and elections for the purpose of the Act and Statutes.

(2) An annual meeting of the Court shall be held during the month of October in each year, unless some other month be fixed by resolution at a previous annual general meeting, on such day and at such hour as shall be appointed by the Council. And at such yearly meeting a report of the proceedings of the Council and of the University, together with a statement of the receipts and expenditure and the balance-sheet as audited, shall be presented by the Council to such meeting, and any vacancies among the officers of the University or among the members of the Court or Council which ought to be filled up by the Court shall be filled up.

(3) A copy of the statement of receipts and expenditure and of the balance-sheet referred to in clause (2) shall be sent to every member of the Court at least seven days before the date of the annual meeting and shall be open to the inspection of all members of the Court and Senate at the office of the University during the year following such annual meeting, at such reasonable hours and under such conditions as the Council may determine.

(4) Twenty members of the Court shall form a quorum.

(5) Special general meetings of the Court may be convened by the Council at any time.

17. The Council shall consist of the
The Council. following persons, namely:—

(i) The Vice-Chancellor and the Pro-Vice-Chancellor for the time being.

(ii) Not more than thirty elected members, of whom five shall be members of the Senate elected by the Senate, and the remainder members of the Court elected by the Court.

(2) Not less than five of the members to be elected by the Court shall be residents of places outside the United Provinces of Agra and Oudh.

(3) At the first election of members of the Council by the Court, it shall proceed in the first place to elect twenty members. The Court shall, as soon as the result of the election is declared, proceed to determine the province, or provinces or States from among the residents of which the remaining five members are to be elected and assign to each province or State the number of member or members to be elected.

(4) At each subsequent election, as nearly as may be, four-fifths of the vacancies shall be first filled up. The remaining one-fifth of the vacancies shall then be filled up to secure representation of provinces and States, on the same lines *mutatis mutandis* as provided in sub-section (3).

(5) The elected members of council shall hold office for the term of three years :

Provided that, at the first annual meeting of the Court, and at the second annual meeting of the Court, as nearly as may be, one-third of the first elected members shall retire by ballot.

(6) All casual vacancies among elected members may be filled up by the body which elected the member whose place has become vacant.

(7) Seven members of the Council shall form a quorum.

18. The Council shall, subject to the control of the Court, have the management and administration of the whole revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(2) Subject to the Act, the Statutes and any Regulations made in pursuance thereof, the Council shall, in addition to all other powers vested in it, have the following powers, namely —

- (i) To appoint from time to time Principals of Colleges and such University Professors, Professors, Assistant Professors, Readers, Lecturers and other members of the teaching staff, as may be necessary, on the recommendation of the Board of Appointments.
- (ii) In the case of other appointments, to delegate, subject to the general control of the Council, the power of appointment to such authority or authorities as the Council may, from time to time, by resolution, either generally or specially direct.
- (iii) To manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University and, for that purpose to appoint such agents as it may think fit.

- (iv) To invest any moneys belonging to the University, including any unapplied income in such stocks, funds, shares, or securities, as it shall from time to time think fit, or in the purchase of immoveable property in India, with the like power of varying such investments from time to time
- (v) To transfer or accept transfers of any moveable or immoveable property on behalf of the University.
- (vi) To provide the buildings, premises, furniture, and apparatus, and other means needed for carrying on the work of the University
- (vii) To enter into, vary, carry out, and cancel contracts on behalf of the University.
- (viii) To entertain, adjudicate upon, and if thought fit, redress any grievances of the officers of the University, the Professors, the Teaching Staff, the Graduates, Under-graduates and the University servants, who may, for any reason, feel aggrieved, otherwise than by an act of the Court

Provided that nothing in this provision shall be deemed to confer on the Council any power to interfere in any matter of discipline in regard to graduates and under-graduates.

- (ix) To maintain a register of donors to the University.
- (x) To select a Seal for the University, and provide for the custody and use of the Seal

19. The Senate shall, save as hereinafter provided in this Statute, ordinarily consist of not less than fifty members, of whom not less than three-fourths shall be Hindus, and shall include the following persons, namely :—

Class I.—Ex-officio members.

- (a) The Chancellor, the Pro-Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor for the time being.
- (b) The University Professors.
- (c) The Principals or heads of Colleges.

Class II.—Elected members

- (a) Five members to be elected by the Court.
- (b) Five members to be elected by the registered graduates of the University from such date as the Court may fix.
- (c) Five representatives of Hindu religion and Sanskrit learning to be elected by the Senate.

- (d) Ten representatives to be elected by the Senate from persons engaged in the teaching work of the University or its Colleges.
- (e) Should the Vice Chancellor declare that there is a deficiency in the number of members required in any faculty or faculties, then five or less persons elected by the Senate, eminent in the subject or subjects of that faculty or those faculties.

Class III.—Nominated members.

- (1) Five members to be nominated by the Visitor
- (2) The foregoing provisions of this Statute shall, as far as may be, be applicable to the first Senate.
- (3) The elected and nominated members of the Senate shall hold office for five years :

Provided, that, as nearly as may be, one-fifth of the total number of the members of the first Senate shown in each of the groups of Class II and of those shown in Class III, shall retire by ballot at the end of each year for the first four years.

(4) All casual vacancies among elected members may be filled up by the body which elected the member whose place has become vacant.

- (5) Fifteen members of the Senate shall form a quorum *

20 (1) The Senate shall be the academic body of the University and, subject to the Act, the Statutes and Regulations of the University, shall have entire charge of the organization of instruction, the courses of study and the examination and discipline of students (save so far as matters of discipline rest with the Pro Vice Chancellor and the heads of colleges) and the conferment of ordinary and honorary degrees.

(2) Subject to the Act and the Statutes and any Regulations made in pursuance thereof, the Senate shall in addition to all other powers vested in it, have the following powers, namely :—

- (i) To report on any matter referred to or delegated to them by the Court or the Council.
- (ii) To discuss and declare an opinion on, any matter whatsoever relating to the University.
- (iii) To make recommendations to the Council or to the Board of Appointments as to the removal of any Professor or Teacher of the University or of its Colleges or as to the appointment of additional Professors or Teachers for the University or its Colleges.

- (iv) To formulate and modify or revise schemes for the organization of Faculties, and to assign to such Faculties their respective subjects, and also to report to the Council as to the expediency of the abolition, combination, or sub-division of any Faculty.
- (v) To fix, subject to any conditions made by the Founders which are accepted by the Court, the times and mode and conditions of competition for Fellowships, Scholarships, and other Prizes, and to award the same
- (vi) To promote research within the University and to require, from time to time, reports on such research.
- (vii) To maintain a register of graduates

21. (1) The Syndicate shall be the executive body of the Senate, and shall consist of the Vice-Chancellor, the Pro Vice-Chancellor and fifteen persons elected by the Senate, of whom not less than ten shall be University Professors or Principals or Professors of Colleges.

(2) The elected members of the Syndicate shall hold office for three years :

Provided that, as nearly as may be, one-third of the elected members of the first Syndicate shall retire by ballot at the end of each year for the first two years.

(3) All casual vacancies among elected members may be filled up by the Senate

(4) Five members of the Syndicate shall be a quorum.

22. It shall be the duty of the Syndicate, subject to the revision and control of the Senate,—

Duties of the Syndicate

- (i) to order examinations in conformity with the Regulations and to fix dates for holding them ;
- (ii) to appoint Examiners, and, if necessary, to remove them, and, subject to the approval of the Council, to fix their fees, emoluments and travelling and other allowances, and to appoint Boards of Examiners and Moderators ;
- (iii) to appoint, whenever necessary, Inspectors or Boards of Inspectors for inspecting Colleges applying for admission to the privileges of the University ;
- (iv) to declare the results of the various University Examinations, and to recommend for degrees, honours, diplomas, licenses, titles and marks of honour ;
- (v) to award stipends, scholarships, medals, prizes and other rewards, in conformity with the Regulations and the conditions prescribed for their award ;

- (vi) to consider and make such reports or recommend such action as may be deemed necessary on proposals or motions brought forward by the members of the Senate and Faculties, for consideration by the Senate,
- (vii) to publish lists of prescribed, or recommended text books and to publish statements of the prescribed courses of study;
- (viii) to prepare such forms and registers as are, from time to time, prescribed by the Regulations; and generally,
- (ix) to perform all such duties and to do all such acts as may be necessary for the proper carrying out of the provisions of the Act, and the Statutes and Regulations or the resolutions of the Senate.

23. (1) The University shall include the Faculties of—(1) The Faculties. Oriental learning, (2) Theology, (3) Arts, Science, Pure and Applied, (5) Law, and, as soon as the Visitor is satisfied that sufficient funds are available for the purpose, of (6) Technology, (7) Commerce, (8) Medicine and Surgery, (9) Agriculture, and other Faculties

(2) The Senate shall annually assign its members to the different Faculties.

(3) The method of assignment of members to the Faculties, the meetings of the Faculties, and their power of co-opting additional members shall be provided for by Regulations.

Provided that the members assigned to the Faculty of Theology shall all be Hindus.

24 (1) The Faculties shall have such powers, and shall Powers of Faculties perform such duties, as may be assigned to them by the Statutes and the Regulations and shall, from time to time, appoint such and so many Boards of Studies in different branches of knowledge as may be prescribed by the Regulations. They shall also consider and make such recommendations to the Senate on any question pertaining to their respective sphere of work as may appear to them necessary, or on any matter referred to them by the Senate.

(2) Five members, in the case of the Faculty of Arts and three members, in the case of the other Faculties, shall constitute a quorum.

25 Convocations of the University for Convocation. the conferring of degrees, or for other purposes, shall be held in a manner to be prescribed by Regulations.

26. The Court, Council, Senate, Syndicate and the Faculties may, from time to time, appoint such and so many standing and special Committees or Boards as may seem to them fit, and may, if they think fit, place on them persons who are not members of the appointing bodies. Such Committees may deal with any subject delegated to them, subject to subsequent confirmation by the appointing body.

Board of Appointments **27.** (i) The Board of Appointments shall consist of—

- (i) The Vice-Chancellor.
- (ii) The Pro-Vice-Chancellor.
- (iii) Two members to be elected by the Court.
- (iv) Two members to be elected by the Council.
- (v) Two members to be elected by the Senate.
- (vi) Two members to be elected by the Syndicate.

(2) The elected members shall hold office for the term of two years. One member from each electing body, to be determined by ballot, shall retire at the end of the first year.

(3) The Vice-Chancellor shall preside at the meetings of this Board or, in his absence, the Pro-Vice-Chancellor.

(4) The meetings of the Board shall be convened by the Vice-Chancellor or, Pro-Vice Chancellor, or, when so directed by the Syndicate, by the Registrar.

(5) The Board shall consider and submit recommendations as to all appointments referred to it.

28. No act or resolution of the Court, the Council, the Senate, the Syndicate or the Faculties or any other authority shall be invalid by reason only of any vacancy in the body doing or passing it, or by reason of any want of qualification by, or invalidity in, the election or appointment of any *de facto* member of the body, whether present or absent.

29. Where, by the Statutes or Regulations, no provision is made for a president or chairman to preside over a meeting of any University authority, Board or Committee, or when the president or chairman so provided for is absent, the members present shall elect one of their number to preside at the meeting.

30. Every officer of the University and every member of any University authority whose term of office or of membership has expired shall be eligible for re-appointment or re-election, as the case may be.

31. Any member of the Court, the Council, the Senate or the Syndicate or any other University authority may resign by letter addressed to the Secretary in the case of the Court, and to the Registrar in all other cases.

32. A member of the Court or the Senate may be removed from office on conviction by a Court of law of what, in the opinion of the Court or the Senate, as the case may be, is a serious offence involving moral delinquency :

Provided that a resolution for the removal of any such member is approved by not less than two-thirds of the members present at the meeting of the Court or the Senate, as the case may be, at which such a resolution is proposed :

And provided further that such a resolution is confirmed by a like majority at a subsequent meeting of the Court or Senate, as the case may be.

ACT NO. I. OF 1916.

The Indian Trusts (Amendment) Act, 1916.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

*[Received the assent of the Governor-General on the 15th
February, 1916.]*

An Act further to amend the Indian Trusts Act, 1882.

WHEREAS it is expedient further to amend the Indian Trusts Act, 1882 ;* It is hereby enacted as follows :—

1. This Act may be called the Indian Trusts (Amendment) Act, 1916.

2. In section 20 of the Indian Trusts Act, 1882* (hereinafter called the said Act), the following amendments shall be made namely :—
Amendment of section 20 of Act II. of 1882.

(i) To clause (b), the following proviso shall be added, namely :—

“Provided that, after the fifteenth day of February, 1916, no money shall be invested in any such annuity being a terminable annuity unless a sinking fund has been established in connection with such annuity ; but nothing in this proviso shall apply to investments made before the date aforesaid.”

(ii) After clause (b), the following new clause shall be inserted, namely :—

“(bb) in India three a half per cent. stock, India three per cent. stock, India two and a half per cent. stock or any other capital stock which may at any time hereafter be issued by the Secretary of State for India in Council under the authority of an Act of Parliament and charged on the revenues of India ;”

(iii) In clause (c) after the word “Council” the words “or by the Government of India” shall be added.

3 After section 20 of the said Act, the following section shall be inserted, namely :—
Insertion of new section 20 A. in Act II. of 1882.

Vide Vol II p. 668.

* Act II. of 1882.

ACT NO. III. OF 1916.

The "Foreigners' (Trial by Court martial) Act, 1916."

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 8th March, 1916.

An Act to provide for the trial, by court-martial, of foreigners for offences against the Defence of India Rules

WHEREAS it is expedient to Provide for the trial, by court-martial, of foreigners for offence, against the Defence of India Rules ; It is hereby enacted as follows —

Short title, extent and duration.

1. (1) This Act may be called the "Foreigners' (Trial by Court-martial) Act, 1916."

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas, and the district of Angul

(3) It shall be in force during the continuance of the present war and for a period of six months thereafter :

Provided that the expiration of this Act shall not affect the validity of anything done in pursuance of it, and any person convicted under this Act may be punished as if it had continued in force, and all prosecutions and other legal proceedings pending under this Act at the time of the expiration thereof may be completed and carried into effect and the sentences carried into execution as if this Act had not expired.

Definitions.

2. In this Act—

(a) "British subject" has the same meaning as in section 27 of the British Nationality and Status of Aliens Act, 1914.*

Provided that any person who holds a certificate of naturalization as a British subject granted under any Act of the Governor-General in Council for the time being in force shall, for the purposes of this Act, be deemed to be a British subject.

(b) "Defence of India Rules" means any rules for the time being in force made under section 2 of the Defence of India (Criminal Law Amendment) Act, 1915.†

(c) "Foreigner" means any person who is not a British subject.

* 4 & 5 Geo. V., c. 17.

† Act IV. of 1915.

Trial of foreigners contravening rules under section 2 of the Defence of India Act, 1915

3. (1) The Governor-General in Council may, by order in writing, direct that a foreigner accused of anything which is an offence in virtue of the Defence of India Rules shall be tried by court-martial.

(2) An order made under sub section (1) may be made in respect of all foreigners or any particular foreigner or any class of foreigners, and in respect of all offences against the said rules or any particular offence or any class of offences.

(3) An order made under sub section (1) may be made in respect of, or include, any foreigner so accused whether such offence was committed before or after the commencement of this Act.

4 When an order under section 3 has been made in respect of, or includes, any foreigner, such foreigner, when so accused, may be taken into military custody, and shall, if he is already in other custody, be handed over to military custody, and shall be proceeded against and dealt with as if he was a person subject to military law in accordance with the Army Act,* and as if the offence of which he is accused was an offence against military law; and may, on conviction, be sentenced to, and shall be liable to suffer, any punishment, assigned by the Defence of India Rules for the offence of which he is found guilty

5. The trial and all matters precedent thereto and attendant thereon shall be held and carried out in accordance with the provisions of the Army Act* and the rules for the time being in force thereunder.

Provided that the Governor General in Council may, by general or special order, modify, in such way as he may direct, any of the said provisions.

Repeal of Ordinance III. of 1916

6. The Foreigners (Trial by Court martial) Ordinance, 1916,† is hereby repealed

* 44 & 45 Vict., c. 58.

† Act III. of 1916

ACT NO. IV. OF 1916.

The Indian Tariff (Amendment) Act 1916.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

*Received the assent of the Governor-General on the 8th.**March, 1916**An Act to amend the Indian Tariff Act 1894 and for other purposes.*

WHEREAS it is expedient to amend the Indian Tariff Act, 1914,* and to repeal, so far as it relates to this Act and re-enact with amendments section 22 of the Sea Customs Act, 1878†; It is here by enacted as follows :—

Short title and retrospective effect 1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1916.

(2) It shall be deemed to have come into force on the 1st day of March, 1916, and any sums due on account of new duties leviable thereunder or of any deficiency between the duties which have been paid and the duties which are leviable thereunder shall be deemed to be duties short levied within the meaning of section 39 of the Sea Customs Act, 1878,† and that Act shall apply accordingly.

2. In this Act the Indian Tariff Act, 1894 (hereinafter referred to as the said Act), means the Indian Tariff Act, 1894,* as subsequently amended.

Substitution of new section 3 in Act VIII of 1894. 3 For section 3 of the said Act, the following section shall be substituted, namely :—

“3 (1) There shall be levied and collected in every port to which this Act applies the duties specified in the Second and Third Schedules

(2) The Governor-General in Council may by notification in the Gazette of India, fix, for the purpose of levying the said duties, tariff values of any articles enumerated, either specifically or under general headings, in the said Schedules as chargeable with duty *ad valorem*, and may alter any tariff values for the time being in force.

(3) Different tariff values may be fixed for different classes or descriptions of the same article.”

Substitution of new Schedules II, III, IV., and V. of Act VIII. of 1894. 4. For the Third, Fourth and Fifth Schedules of the said Act the Schedules contained in the First Schedule to this Act shall be substituted.

5. The enactments specified in the Second Schedule to this Act are repealed to the extent specified in the fourth column thereof.

* Act VIII. of 1894

† Act VIII., of 1878.

‡ Certain words after this repealed by Act 6 of 1921 have been omitted.

SCHEDULE III,—EXPORT TARIFF.

No	Names of Articles.	Per	Rate of duty.
	JUTE , other than Bimlipatam jute		
1	RAW JUTE —		R A
	(1) Cuttings ...	Bale of 400 lbs.	0 10
	(2) All other descriptions	" " "	2 4
2	JUTE MANUFACTURES , when not in actual use as coverings, receptacles or bindings for other goods—		
	(1) sacking (cloth, bags twist, yarn, rope and twine)	Ton of 2,240 lbs	10 0
	(2) Hessians all other descriptions of jute manufactures not otherwise specified	" " "	16 0
	RICE		
3	RICE , husked or unhusked, including rice flour, but excluding rice bran and rice dust which are free	Indian maund of 82 two-seventh lbs avoirdupois weight	0 8
	TEA.		
4	TEA	100 lbs.	1 8

SCHEDULE II.
REPEALS.
(See section 5.)

No.	Year.	Short title.	Extent of Repeal.
VIII.	1878	The Sea Customs Act, 1878 ..	Section 22 so far as it relates to this Act,
III.	1896	The Indian Tariff Act (1894) Amendment Act, 1896.	The whole.
VIII.	1910	The Indian Tariff (Amendment) Act 1910.	The whole.
VI.	1911	The Indian Tariff (Amendment) Act, 1911.	The whole
XVII.	1914	The Second Repealing and Amending Act, 1914.	The entry in the First Schedule regarding the Indian Tariff Act 1894.

ACT NO VI OF 1916.

The Indian Ports (Amendment) Act, 1916.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL

*Received the Governor-General's Assent on the 16th March 1916.**An Act further to amend the Indian Ports Act, 1908.*

WHEREAS it is expedient further to amend the Indian Ports Act, 1908,* It is hereby enacted as follows:—

- | | |
|---|--|
| Short title | 1. This Act may be called the Indian Ports (Amendment) Act, 1916 |
| Amendment of section 4, Act XV of 1908 | 2. In section 4, sub section (1) of the Indian Ports Act, 1908* (hereinafter called the the said Act), the words "with the previous sanction of the Governor-General in Council" shall be omitted. |
| Amendment of section 5, Act XV of 1908. | 3. In section 5, sub-section (1) of the said Act, the words "with the previous sanction of the Governor-General in Council and" shall be omitted. |
| Amendment of section 6, Act XV of 1908 | 4. In section 6, sub-section (1) of the said Act, the following amendments shall be made— |
- (1) After clause (j) the following clause shall be inserted, namely:—
- (1j) for regulating the use of piers, jetties, landing places, wharves, quays, warehouses and sheds when belonging to the Government, and for fixing the rates to be paid for the use of the same;”
- (2) in clause (k) after the word “port” the words “and for licensing and regulating the crews of any such vessels,” and after the word “passengers” the words “or of the crew” shall be inserted, and at the end of the same clause, the following shall be added, namely:—“and may by such rules provide for the fees payable in respect of any such license, and in the case of passenger vessels plying for hire, for the rates of hire to be charged and the conditions under which such vessels shall be compelled to ply for hire, and further for the conditions under which any license may be revoked;”

Amendment of section 31, Act XV of 1908. **5.** In section 31 of the said Act, the following amendments shall be made, namely :—

(i) After sub-section (1) the following sub section (2) shall be inserted, namely :— *Vide* Vol. IV p 431.

(ii) The existing sub-sections (2), (3) and (4) shall be renumbered (3) (4) and (5), respectively.

(iii) In the existing sub-section (3) for the word and figures “(1) and (2)” the word and figures “(1) (2) and (3) shall be substituted.

Amendment of section 33, Act XV of 1908. **6** In section 33 of the said Act, the following amendments shall be made, namely :—

(i) In sub section (1) after the figure (1), the following shall be inserted namely :—

“Subject to the provisions of sub-section (2).”

(ii) After sub-section (1), the following sub-section (2) shall be inserted, namely :—

“(2) The Local Government may, by notification in the local official gazette, alter or add to any entry in the First Schedule relating to ports within its own province, and this power shall include the power to regroup any such ports :

Provided that if any such alteration or addition has the effect of increasing the port dues in any such port such alteration or addition shall require the sanction of the Governor-General in Council.”

(iii) In the existing sub-section (2) the words “with the previous sanction of the Governor-General in Council” and the words “with the like sanction” shall be omitted, and to the same sub-section, the following proviso shall be added namely :—

“Provided that, except with the sanction of the Governor-General in Council, the rates and the times so declared shall not be respectively higher or shorter than the maximum rate and the shortest time specified and fixed in the First Schedule for any port in the province.”

(iv) The existing sub-sections (2), (3) and (4) shall be renumbered (3), (4) and (5), respectively.

7. In section 34 of the said Act, after the words “The Local Government may” the words “after consulting the authority appointed under section 36” shall be inserted ; and for the words “the vessels” the following shall be substituted, namely :—“subject to such conditions, if any, as it thinks fit to impose, any vessel or class of vessels ;” and after the word “them” the words “or may

Amendment of section 34, Act XV of 1908.

extend the periods for which any vessel or class of vessels entering a port shall be exempt from liability to pay port dues" shall be added.

Amendment of section 35, Act XV of 1908,

8. In section 35, sub-section (1) of the said Act, the proviso shall be omitted.

Amendment of section 36, Act XV of 1908

9. In section 36 of the said Act, sub-section (3) shall be omitted.

10 In section 37, sub-section (2) (a) of the said Act, for the words "with the previous sanction" the words "subject to the control" shall be substituted.

Amendment of section 37, Act XV of 1908.

Insertion of new sections 68A and 68B in Act XV of 1908.

11. After section 68 of the said Act, the following sections shall be inserted, namely :

Vide Vol. IV pp. 444-45.

ACT NO. VII. OF 1916.

The Indian Medical Degrees Act 1916.

[PASSED BY THE GOVERNOR-GENERAL IN COUNCIL]

Received the Governor-General's Assent on the 16th March 1916.

An Act to regulate the grant of titles implying qualifications in western medical science and the assumption and use by unqualified persons of such titles.

Whereas it is expedient to regulate the grant of titles implying qualifications in western medical science, and the assumption and use by unqualified persons of such titles, It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Medical Degrees Act, 1916.

Definition. 2. In this Act "western medical science" means the western methods of Allopathic medicine, Obstetrics and Surgery, but does not include the Homœopathic or Ayurvedic or Unani system of medicine.

Right to confer degrees, etc. 3. The right of conferring, granting or issuing in British India degrees, diplomas, licenses, certificates or other documents stating or implying that the holder, grantee or recipient thereof is qualified to practise western medical science, shall be exercisable only by the authorities specified in the Schedule and by such other authority as the Governor General in Council may, by notification in the Gazette of India, and subject to such conditions and restrictions as he thinks fit to impose, authorize in this behalf.

Prohibition of unauthorised conferment of degrees, etc. 4. Save as provided by section 3, no person in British India shall confer, grant, or issue, or hold himself out as entitled to confer, grant, or issue any degree, diploma, license, certificate or other document stating or implying that the holder, grantee or recipient is qualified to practise western medical science.

Contravention of section 4. 5. Whoever contravenes the provisions of section 4 shall be punishable with fine which may extend to one thousand rupees; and if the person so contravening is an association, every member of such association, who knowingly and wilfully authorises or permits the contravention, shall be punishable with fine which may extend to five hundred rupees.

6 Whoever voluntarily and lalsely assumes or uses any title or description or any addition to his name implying that he holds a degree, diploma, license or certificate conferred, granted or issued by any authority referred to in section 3, or recognised by the General Council of Medical Education of the United Kingdom, or that he is qualified to practise western medical science shall be punishable with fine which may extend to two hundred and fifty rupees or, if he subsequently commits, and is convicted of, an offence punishable under this section, with fine may extend to five hundred rupees :

Penalty for falsely assuming or using medical titles.

Provided that nothing in this section shall apply to the use by any person of any title, description, or addition which, prior to the commencement of this Act, be used in virtue of any degree, diploma, license or certificate conferred upon, or granted or issued to him.

7. No Court shall take cognizance of an offence punishable under this Act, except upon complaint made by order of the Local Government, or upon complaint made, with the previous sanction of the Local Government, by a Council of Medical Registration established by any enactment for the time being in force in the province.

8. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

Jurisdiction of Magistrates.

SCHEDULE.

(See section 3.)

1. Every University established by an Act of the Governor-General in Council.
2. The State Medical Faculty in Bengal.
3. The College of Physicians and Surgeons of Bombay.
4. The Board of Examiners, Medical College, Madras.

ACT NO. VIII. OF 1916.

The Presidency Banks (Amendment) Act 1916.

[PASSED BY THE GOVERNOR-GENERAL IN COUNCIL]

Received the Governor-General's Assent on the 20th March, 1916.

An Act further to amend the Presidency Banks Act, 1876.

Whereas it is expedient to amend the Presidency Banks Act, 1876,* It is hereby enacted as follows :—

Short title

1. This Act may be called the Presidency Banks (Amendment) Act, 1916.

Amendment of sections 36 & 45, Act XI of 1876

2. In the Presidency Banks Act, 1876* (hereinafter called the said Act,) the following amendments shall be made namely .—

(i) After clause (2) of paragraph (a) of section 35, the following clause shall be inserted, namely :—

“(2A) India three-and-a-half per cent. stock India three per cent. stock, India two and a-half per cent. stock, or any other capital stock which may, at any time hereafter, be issued by the Secretary of State for India in Council under the authority of an Act of Parliament and charged on the revenues of India.”

(ii) In paragraph (d) of section 36 and in section 45, for the words and figures “clauses (1), (2), (3) and (4),” the words and figures “clauses (1), (2), (2A), (3) and (4)” shall be substituted

Construction of references to certain clauses of section 36, Act XI of 1876.

3. Any reference in the said Act to section 36, paragraph (a), Nos. (1) to (5) inclusive, shall be deemed to include a reference to section 36, paragraph (a), clause (2A).

4. Any business carried on or transacted, or investment made prior to the commencement of this Act which, if this Act had been in force, could have been validly carried on, transacted or made, is hereby validated.

Validation of past transactions.

* Act XI of 1876.

ACT NO. XII. OF 1916.

The Indian Lunacy (Amendment) Act, 1916.

[PASSED BY THE GOVERNOR-GENERAL IN COUNCIL]

*Received the Governor-General's assent on the 20th September, 1916.**An Act to amend the Indian Lunacy Act, 1912.*

WHEREAS it is expedient to amend the Indian Lunacy Act, 1912,* It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Lunacy (Amendment) Act, 1916.Insertion of new section
11A in Act IV, 1912.**2** After section 11 of the Indian Lunacy Act, 1912,* the following section shall be inserted, namely —

Vide vol. v p. 155.

* ACT IV of 1912.

ACT NO. XIII. OF 1916.

The Amending Act, 1916.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

*Received the Governor-General's Assent on the 28th
September, 1916.*

An Act to amend certain enactments.

WHEREAS it is expedient that certain formal amendments should be made in the enactments specified in the Schedule; It is hereby enacted as follows :—

Short title.	1. This Act may be called the Amending Act, 1916.
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Amendment of certain enactments.	2. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.
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THE SCHEDULE.

AMENDMENTS.

(See Section 2.)

1	2	3	4
Year.	No.	Short title	Amendments
1873	V.	The Government Savings Banks Act, 1873	In section 3, for the definition of "minor" the following shall be substituted, namely — "Minor" means a person who is not deemed to have attained his majority under the Indian Majority Act, 1875-
1894	VIII	The Indian Tariff Act, 1894	In section 7, sub-section (1), for the words "Third Schedule," the words "Second Schedule" shall be substituted.
1898	V.	The Code of Criminal Procedure 1898.	In section 4, clause (j), the word "and" where it occurs between the word "Madras" and the word "Bombay" shall be omitted, and for the words "the High Court of Judicature for the North-Western Provinces," the words "Allahabad and Patna" shall be substituted In the proviso to section 178, after the figures "1861," the words and figures "or section 107 of the Government of India Act, 1915" shall be inserted In sections 194, sub-section (1), 266 and 267, after the figures "1861," the words and figures "or the Government of India Act, 1915" shall be inserted, and in section 266, the words "or to be established" shall be omitted. In section 555, for the words and figures "15 of the Indian High Courts Act, 1861," the words and figures "107 of the Government of India Act, 1915" shall be substituted
1899	11	The Indian Stamp Act, 1899	In section 2, clause (8), sub-clause (a), after the words "St George," the words "the Presidency of Fort William in Bengal" shall be inserted; and for the word "Bengal," the words "Bihar and Orissa" shall be substituted.

THE SCHEDULE—*concl'd.*

AMENDMENTS.

(See section 2.)

1	2	3	4
Year	No.	Short title	Amendments
1899	II.	The Indian Stamp Act, 1899— <i>concl'd.</i>	In section 57, sub-section (1), after clause (b), the following shall be inserted namely :— “(bb) if it arises in the territories for the time being administered by the Lieutenant Governor of Bihar and Orissa—to the High Court of Judicature at Patna.”
1908	V.	The Code of Civil Procedure. 1908.	In sections 111, 116, 122, 126, 129 and 130 after the figures “1861,” the words and figures “or the Government of India Act, 1915” shall be inserted. In section 123 sub-section (1), for the words “each of the towns of Calcutta” Madras, Bombay, Allahabad Lahore and Rangoon,” the following shall be substituted, namely .— “ the town which is the usual place of sitting of each of the High Courts and Chief Courts referred to in section 122.” In section 126 for the words and figures ‘section 15 of that Act,’ the words and figures “the proviso to section 107 of the latter Act” shall be substituted, and for the word “sanction” wherever it occurs in the said Section, the word “approval” shall be substituted. In section 130, for the words “of that Act,” the words and figures “or section 107, respectively of those Acts” shall be substituted
1914	VIII.	The Indian Motor Vehicles Act, 1914	In section 15, for the word “thereunder,” the words and figures “by the Local Government under section 11” shall be substituted.

ACT NO. XIV. OF 1916.

The Indian Bills of Exchange Act, 1916.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the Governor-General's Assent on the 28th September 1916.

An Act to make provision in connection with the present war with respect to Bills of Exchange payable outside British India.

Whereas it is expedient to make provision in connection with the present war with respect to bills of exchange payable outside British India It is hereby enacted as follows :—

Short title and duration. 1. (1) This Act may be called the Indian Bills of Exchange Act, 1916.

(2) It shall be in force during the continuance of the present war and for a period of six months thereafter

2 Notwithstanding anything contained in the Negotiable Instruments Act, 1881*, or in any other enactment for the time being in force, delay in the presentment for "acceptance or"† payment of a bill of exchange, where the proper place for "acceptance or"† payment is outside British India, is excused if the delay is or has been, due either directly or indirectly to circumstances arising out of the present war, or to the impracticability, owing to similar circumstances, of transmitting the bill to the place of "acceptance or" payment with reasonable safety.

3. Where, in any suit or other proceeding founded upon a bill of exchange payable outside British India, there is reason to believe that the bill has been lost, and that the loss can reasonably be presumed to be due, either directly or indirectly, to circumstances arising out of the present war, the Court may allow proof of the bill to be given by means of a copy thereof certified by a notary public, or by means of such other evidence as the Court thinks reasonable under the circumstances, and may pass a decree thereon notwithstanding any rule of law of the place where the bill is made payable :

Provided that such indemnity be given against the claims of other persons as the Court may require.

*Act XXVI of 1881.

† The words within quotations have been added by Act 9 of 1917.

ACT NO. XV. OF 1916.

The Hindu Disposition of Property Act, 1916.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

*Received the Governor-General's Assent on
the 28th September, 1916.*

An Act to remove certain existing disabilities in respect of the power of disposition of property by Hindus for the benefit of persons not in existence at the date of such disposition.

Whereas it is expedient to remove certain existing disabilities in respect of the power of disposition of property by Hindus for the benefit of persons not in existence at the date of such disposition. It is hereby enacted as follows :

Short title and extent. **1** (1) This Act may be called the Hindu Disposition of Property Act, 1916

(2) It extends, in the first instance, to the whole of British India, except the province of Madras: Provided that the Governor-General in Council may, by notification in the Gazette of India, extend this Act to the province of Madras.

2. Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu whether by transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not in existence at the date of such disposition.

Limitations and conditions. **3.** The limitations and provisions referred to in section 2 shall be the following, namely :—

(a) in respect of dispositions by transfer *inter vivos*, those contained in sections 13, 14 and 20 of the Transfer of Property Act, 1882,* and

(b) in respect of dispositions by will, those contained in sections 100 and 101 of the Indian Succession Act, 1865†

* Act IV of 1882.

† Act X of 1865.

4. Where a disposition of property fails by reason of any of the limitations referred to in section 3, any disposition intended to take effect after or upon failure of such prior disposition also fails.

5. Where the Governor General in Council is of opinion that Application of this the Khoja community in British India or Act to the Khoja any part thereof desire that the provisions community. of this Act should be extended to such community, he may by notification in the Gazette of India, declare that the provisions of this Act, with the substitution of the word "Khojas" or "Khoja," as the case may be, for the word "Hindus" or "Hindu" wherever those word occur, shall apply to that community in such area as may be specified in the notification, and this Act shall thereupon have effect accordingly.

ACT NO. I. OF 1917.

The Inland Steam-Vessels Act 1917.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

Received the Governor-General's Assent on the 7th February, 1917.

An Act to consolidate the enactments relating to Inland Steam-vessels.

WHEREAS it is expedient to consolidate the enactments relating to inland steam vessels ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement. 1 (1) This Act may be called the Inland Steam-vessels Act, 1917.

(2) It extends, in the first instance, to the whole of British India, except the territories administered by the Governor of Fort St. George in Council ; and

It shall come into force on such date as the Governor-General in Council, by notification in the Gazette of India, may direct. .

(3) The Governor of Fort St George in Council may, at any time, by notification in the Fort St. George Gazette, extend this Act or any part thereof to the whole or any part of the territories under his administration ; and the Act or part so extended shall come into force in such territories or part thereof on such date as may be specified in this behalf in such notification.

Definitions 2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) "Inland steam-vessel" means a steam-vessel which ordinarily plies on any inland water :
- (2) "inland water" means any canal, river, lake or other navigable water in British India :
- (3) "passenger" includes any any person carried in a steam-vessel other than the master and crew and the owner, his family and servants :
- (4) "prescribed" means prescribed by any rule under this Act :
- (5) "steam vessel" means every description of vessel propelled wholly or in part by the agency of steam :

- (6) "survey" means the survey of a steam vessel under this Act :
- (7) "surveyor" means a surveyor appointed under this Act : and
- (8) "voyage" includes the plying of a steam vessel at or about any place.

CHAPTER II.

SURVEY OF INLAND STEAM-VESSELS

Inland steam-vessel not to proceed on voyage or to be used for service without certificate of survey.

3. (1) An inland steam-vessel shall not proceed on any voyage, or be used for any service, unless she has a certificate of survey in force and applicable to such voyage or service.

(2) Nothing in this section shall apply to any steam-vessel proceeding on a voyage during the interval between the time at which her certificate of survey expires and the time at which it is first practicable to have the certificate renewed.

Appointment of surveyors and places of survey.

4. (1) The Local Government may, by notification in the local Official Gazette,—

(a) declare such places, within the territories under its administration, as it thinks fit, to be places of survey, and

(b) appoint so many persons to be surveyors at the said places as it thinks fit, for the purposes of this Act.

(2) Every surveyor shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.*

5. (1) For the purposes of a survey, the surveyor may at

Powers of surveyors. any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel and every part thereof, including the hull, boilers, engines and other machinery and all equipments and articles on board :—

Provided that he shall not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam vessel shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam vessel, and her machi-

*Act XLV, of 1860,

nery or any part thereof, and all equipments and articles on board, as he may require for the purposes of a survey.

6. Before a survey is commenced, the owner or master of the steam-vessel to be surveyed shall pay fees in respect of surveys to such officer as the Local Government may, by notification in the local official Gazette, appoint in this behalf—

- (a) a fee calculated on the tonnage of the steam-vessel according to the rates mentioned in Schedule I., or according to any other prescribed rates ; and
- (b) when the survey is to be made in any place of survey other than Calcutta, Madras, Bombay or Rangoon such additional fee in respect of the expense (if any) of the journey of the surveyor to the place as the Local Government may by such notification direct.

Declaration of surveyor. 7. When the survey of a steam vessel is completed if the surveyor making it is satisfied that—

- (a) the hull, boilers, engines and other machinery of the steam-vessel are sufficient for the voyage or service intended and in good condition, and
- (b) the equipments of the steam vessel and the certificates of the master and engineer are such and in such condition as are required by any law for the time being in force and applicable to the steam vessel,

the surveyor shall forthwith give to the owner or master a declaration in the prescribed form containing the particulars mentioned in clauses (a) and (b), and the following further particulars, namely ;—

- (i) the time (if less than one year) for which the hull, boiler, engines and other machinery and equipments of the steam-vessel will be sufficient :
- (ii) the limit (if any) beyond which, as regards the hull, boilers, engines and other machinery or equipments, the steam-vessel is in the surveyor's judgment not fit to ply ;
- (iii) the number of passengers (if any) which the steam-vessel is, in the judgment of the surveyor, fit to carry, specifying, if necessary, the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins : the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires ; and

(vi) any other prescribed particulars.

8. (1) The owner or master of a steam-vessel to whom a declaration is given under section 7 shall, within fourteen days after the date of the receipt thereof send the declaration to such officer as the Local Government may, by notification in the local official Gazette, appoint in this behalf.

(2) If any owner or master fails to send a declaration as required by sub-section (1), he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

9. (1) The Local Government shall, if satisfied that all the provisions of this Act have been complied with in respect of a declaration sent under section 8, cause,—

(a) a certificate of survey in duplicate, to be prepared, and

(b) notice thereof to be given by post or otherwise to the owner or master of the steam-vessel to which the certificate relates.

(2) On application made by the owner or master to such officer at the place of survey as the Local Government may, by notification in the local official Gazette, appoint in this behalf, and on payment to such officer by the owner or master of the sum (if any) forfeited by him under section 8, sub-section (2) (the actual amount of which within the limit thereby fixed shall be determined by the Local Government), the certificate in duplicate, so prepared shall be granted to the owner or master by the Local Government and issued to him through such officer.

(3) A certificate granted under this section shall be in the prescribed form, shall contain a statement to the effect that all the provisions of this Act with respect to the survey of the steam vessel and the declaration of survey have been complied with, and shall set forth—

(a) the particulars concerning the steam-vessel mentioned in the declaration of survey as required by clauses, (i), (ii) and (iii) of section 7, and

(b) any other prescribed particulars.

(4) The Local Government may, by notification in the local official Gazette, delegate to any person all or any of the functions assigned to the Local Government under this section :

Provided that no delegation shall be made under sub-section (2) so as to authorise the grant of a certificate of survey by the surveyor who made the declaration of survey under section 7.

10. The owner or master of every steam-vessel, for which a Certificate of survey to be affixed in conspicuous part of steam-vessel shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as it remains in force and the steam-vessel is in use, on some conspicuous part of the steam-vessel where it may be easily read by all persons on board.

Term of certificates of survey. **11.** A certificate of survey shall not be in force—

- (a) after the expiration of one year from the date thereof, or
- (b) after the expiration of the period (if less than one year) for which the hull, boilers, engines or other machinery, or any of the equipments of the steam-vessel to which the certificate relates have been stated in the certificate to be sufficient, or
- (c) after notice has been given by any Local Government, to the owner or master of such steam-vessel, that such Local Government has cancelled or suspended it.

12. After a certificate of survey has ceased to be in force, the same shall only be renewed after a fresh survey of the steam-vessel to which certificate relates has been held in accordance with the provisions of this Chapter save so far as any relaxation thereof may be prescribed.

Renewal of certificates of survey. Power for Local Government to suspend or cancel certificate of survey. **13.** A certificate of survey may be suspended or cancelled by any Local Government if it has reason to believe—

- (a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or other machinery or of any of the equipments of the steam-vessel has been fraudulently or erroneously made; or
- (b) that the certificate has otherwise been granted upon false or erroneous information; or
- (c) that since the making of the declaration the hull, boilers engines or other machinery, or any of the equipments of the steam vessel have sustained any material injury or have otherwise become insufficient.

14. The Local Government may require any certificate of survey which has expired or has been suspended or cancelled to be delivered up to such officer as the Local Government may, by notification in the local official Gazette, appoint in this behalf.

Power for Local Government to require delivery of expired or cancelled certificate.

15 If the Local Government which suspends or cancels a Report of suspension or cancellation of certain certificates. certificate of survey is not the Local Government which (or whose delegate) granted the certificate, the Local Government suspending or cancelling the certificate shall report the fact of suspension or cancellation, together with the reasons therefor, to the Local Government which (or whose delegate) granted the certificate.

16 A survey shall ordinarily be made by one surveyor, but two surveyors may be employed if Local Government by order in writing so directs either generally in the case of all steam-vessels at any place of survey or specially in the case of any particular steam-vessel or class of steam-vessels at any such place.

17. (1) If the surveyor making a survey of a steam-vessel refuses to give a declaration under section 7 with regard to the steam vessel, or gives a declaration with which the owner or master of the steam-vessel is dissatisfied, the Local Government may, on the application of the owner or master, and the payment by him of such fee not exceeding twice the amount of the fee payable for the previous survey, as the Local Government may require, direct two other surveyors to survey the steam-vessel

(2) The surveyors so directed shall forthwith survey the steam vessel, and may, after the survey, either refuse to give a declaration or give such declaration as, under the circumstances, seems to them proper.

(3) Any declaration given, or any refusal to give a declaration under sub-section (2), shall be final.

18. When a survey is made by two surveyors under either section 16 or section 17, each of the surveyors shall perform the prescribed portion of the duties assigned to a surveyor under this Act or the rules made thereunder.

19. (1) The Local Government may,* make rules to regulate the making of surveys.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the times and places at which, and the manner in which, surveys are to be made ;

(b) the duties of the surveyor making a survey and, where two surveyors are employed, the respective duties of each such surveyor ;

* Repealed by Act 38 of 1920.

- (c) the form in which declarations of survey and certificates of survey are to be framed, and the nature of the particulars to be stated therein under sections 7 and 9 ;
- (d) the rates other than those mentioned in Schedule I according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the places of survey within the territories under its administration ; and
- (e) the cases in, and the extent to, which a survey may be dispensed with before the grant of a new certificate.

CHAPTER III.

MASTERS [INCLUDING SERANGS] AND ENGINEERS [INCLUDING ENGINE-DRIVERS] OF INLAND STEAM-VESSELS.

20. The Local Government may appoint examiners for the purpose of examining the qualifications of persons desirous of obtaining certificates hereinafter called certificates of competency) to the effect that they are competent to act as masters or serangs, or as engineers or engine-drivers, as the case may be, on board inland steam-vessels.

21. (1) The Local Government or such officer as it may, by notification in the local official Gazette, appoint in this behalf, shall grant to every person who is reported by the examiners to possess the prescribed qualifications, a certificate of competency to the effect that he is competent to act as a first-class master second-class master or serang, or as an engineer, first class engine-driver or second-class engine-driver as the case may be, on board an inland steam-vessel.

Provided nevertheless that, before granting a certificate of competency under this Act, the authority empowered to grant such certificate may if it considers the report of the examiners regarding any applicant for such certificate to be defective, or has reason to believe that such report has been unduly made, require a further examination or a re-examination of the applicant.

(2) Every certificate granted under this section shall be in the prescribed form.

22. (1) The Local Government may, in its discretion, grant without examination to any person who has served as a master, or as an engineer, of an inland steam-vessel before the first day of April, 1890, a certificate (hereinafter called a certificate of service) to the effect that he is, by reason of his having so served, competent to act as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be on board an inland steam-vessel.

(2) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination.

22A. (1) The Local Government may also, in its discretion, grant —

Licenses.

(a) to a person who is in possession of a second class masters' certificate granted under section 21 or section 22, and has, by virtue of such certificate, acted as master of inland steam vessel having engines of forty or more nominal horse power for a period of not less than five years, or

(b) to a person who is in possession of a first class engine drivers' certificate granted under section 21 or section 22, or an engine drivers' certificate granted under the Indian steamships Act, 1884, and has, by virtue of such certificate, served as an engine-driver of an inland steam vessel having engines of not less than thirty nominal horse power for five years, for not less than two and a half years, of which period he has been the engine driver of such vessel within the meaning of section 26,

a license authorising such person to act as master or engineer, as the case may be, of any inland steam vessel having engines of one hundred and seventy nominal horse power or of such less nominal horse power "as such Government" may deem fit.

(2) Any such license shall remain in force only for such time as the person holding the same is in possession of and entitled to a master's or an engine-driver's certificate as the case may be, of the nature referred to in sub-section (1).

Provided that the Local Government may, in its discretion, suspend, cancel or vary the conditions of any such license."

* The words within quotation have been substituted by Act VI of 1920.

23. Every certificate of competency or service "and every license"* granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate,"or license"* and the other shall be kept and recorded in the prescribed manner.

24 Whenever a master or serang, or an engineer or engine-driver, proves, to the satisfaction of the authority which granted his certificate, "or lince"* that he has, without fault on his part, lost or been deprived of it, a copy of the certificate "or license"* to which, according to the record kept under section 23, he appears to be entitled, shall be granted to him, and shall have the same effect as the original

25 An inland steam-vessel having engines of "one hundred"* or more nominal horse power shall not proceed on any voyage unless she has—

(a) as her master a person possessing a first-class-master's certificate granted under this Act, or a master's certificate granted under the Indian Merchant Shipping Act,† 1859, or granted under, or continued in force by, the Merchant Shipping Act‡ 1894 "or a masters license granted under section 22A and applicable to such vessel and voyage"* and

(b) as her engineer a person possessing an engineer's certificate granted under this Act, or the Indian Steam ships Act,§ 1884, or granted under, or continued in force by, the Merchant Shipping Act,† 1894 "or an engine drivers license granted under section 22A and applicable to such vessel and voyage" *

26. An inland steam-vessel having engines of "forty"* or more nominal horse-power, but of less than "one hundred"* nominal horse power, shall not proceed on any voyage unless she has—

(a) as her master a person possessing a second class master's certificate granted under this Act, or any certificate referred to in clause (a) of section 25, and

(b) as her engineer a person possessing a first class engine-driver's certificate granted under this Act, or an

* Substituted by Act VI of 1920.

† Act I. of 1859.

‡ 57 & 58 Vict., c. 60.

§ Act VII. of 1884.

engine-driver's certificate granted under the Indian Steam-ships Act,* 1884, or any certificate referred to in clause (b) of section 25 :

Provided that a steam-vessel shall be deemed to have complied with this section if she has as her master and engineer a person possessing both a certificate referred to in clause (a), and a certificate referred to in clause (b), of this section.

Certificates to be held by master and engineer of vessel of less than thirty horse-power.

27. An inland steam-vessel having engines of less than "forty†" nominal horse-power shall not proceed on any voyage unless she has—

- (a) as her master a person possessing a serang's certificate granted under this Act, or any certificate referred to in clause (a) of section 26, and
- (b) as her engineer a person possessing a second class engine-driver's certificate granted under this Act, or any certificate referred to in clause (b) of section 26 :

Provided that a steam-vessel shall be deemed to have complied with this section if she has as her master an engineer a person possessing both a certificate referred to in clause (a), and a certificate referred to in clause (b), of this section.

Power for Local Government to require master or engineer to hold certificate granted under Act in addition to other certificate

28. Notwithstanding anything in this Chapter, the Local Government may, by general or special order, direct that a person possessing—

- (a) a master's certificate granted under the Indian Merchant Shipping Act,‡ 1859, or granted under, or continued in force by, the Merchant Shipping Act,§ 1894, or
- (b) an engineer's or engine-driver's certificate granted under the Indian, Steam-ships Act,* 1884, or an engineer's certificate granted under, or continued in force by, the Merchant Shipping Act,§ 1894,

shall not act as master or engineer, as the case may be, of an inland steam-vessel unless he also possesses—

- (i) in case (a), such a master's or serang's certificate granted under this Act as qualifies him under this Chapter to act as master of the steam-vessel, or
- (ii) in case (b), such an engine-driver's or engine-driver's certificate granted under this Act as qualifies him under this Chapter to act as engineer of the steam-vessel .

* Act VII. of 1884

† The words within quotations have been substituted by Act 6 of 1920.

‡ Act I. of 1859.

§ 57 & 58 Vict., c. 60.

Provided that, for the purposes of this section, the Local Government may, in its discretion, grant to any person, without examination, a master's or serang's or an engineer's or engine driver's certificate of competency under this Act, and such certificate shall have the same effect as a certificate of competency granted under this Act after examination

Power for Local Government to make rules as to grant of certificates of the competency.

29. (1) The Local Government may, with the previous sanction of the Governor-General in Council, make rules to regulate the granting of certificates of competency under this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the times and places of holding and the mode of conducting examination of persons desirous of obtaining certificates of competency.
- (b) the qualifications to be required of persons desirous of obtaining such certificates ;
- (c) the examination fees to be paid by such person ; and
- (d) the forms in which such certificates are to be framed, and the authority by whom, and the manner in which, copies are to be kept and recorded under section 23.

Power for Local Government to make rules as to grant of certificates of service.

30. The Local Government may also make rules to regulate the granting of certificates of service under section 22, and may by such rules prescribe in particular—

- (a) the fees to be paid for such certificates, and
- (b) the forms in which such certificates are to be framed, and the authority by whom, and the manner in which, copies are to be kept and recorded under section 23.

30A.* The Local Government may also make rules to regulate the granting of licences under section 22A, and may, by such rules, prescribe in particular—

Power of Local Government to make rules as to grant of licences

- (a) the fees (if any) to be paid for such licenses, and (b) the forms in which such licenses are to be framed and the authority by whom and the manner in which copies are to be kept and recorded under section 23."

Area in which certificates of competency or service shall have effect.

31. Certificates of competency or service granted under this Chapter shall have effect as follows, namely :—

* The words within quotations have been inserted by Act VI of 1920.

(i) A certificate of competency or service "and licences"* as engineer or engine driver shall have effect throughout British India.

(ii) A certificate of competency or service as master or serang " and a license " * shall have effect throughout the province in which it was granted :

Provided that the authority granting such certificate " or license " may, by endorsement thereon, restrict the effect of such certificate " or license " * to any part of such province .

Provided further that such certificate " or license " * may be endorsed by the Local Government of any other province, or with the general or special sanction of the Local Government of such other province, by the authority granting it so as to have effect in such other province or any part thereof, and thereupon shall have effect accordingly.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

Report of casualties to
be made to nearest
police-station

32. Whenever—

- (a) any inland steam-vessel has been wrecked, abandoned or materially damaged, or
- (b) by reason of any casualty happening to, or on board of, any inland steam vessel, loss of life has ensued, or
- (c) any inland steam vessel has caused loss or material damage to, any other vessel,

the master of the steam-vessel shall forthwith give notice of the wreck, abandonment, damage, casualty or loss to the officer in charge of the nearest police-station

Power for Local
Government to appoint
Court of investigation

33 (1) If a formal investigation into the facts of any case reported under section 32 appears to the Local Government to be expedient the Local Government may—

- (a) appoint a special Court and direct the Court to make the investigation at such place as the Local Government may fix in this behalf, or
- (b) direct any principal Court of ordinary criminal jurisdiction or the Court of any District Magistrate to make the investigation,

* The words within quotations have been inserted by Act VI of 1920.

(2) A special Court appointed under clause (a) of sub section (1) shall consist of not less than two nor more than four persons of whom one shall be a Magistrate, one shall be a person conversant with maritime affairs or with the navigation of inland steam-vessels, and the other or others (if any) shall be conversant with either maritime or mercantile affairs, or with the navigation of inland steam-vessels

34. (1) Any Court making an investigation under section 33 may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, engineer or engine driver or any person holding a certificate granted under Chapter III, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty, or loss referred to in section 32

(2) In every case in which any such charge arises against any master, engineer or engine driver or any person holding a certificate granted under Chapter III in the course of an investigation, the Court shall before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or of any statement of the case upon which the investigation has been directed.

35. (1) If the Local Government has reason to believe that there are grounds for charging any master, engineer or engine driver, or any person holding a certificate granted under Chapter III, with incompetency or misconduct, otherwise than in the course of an investigation under section 33, it may send a statement of the case to the principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge.

(2) Before commencing an investigation under sub-section (1), the Court shall cause the person charged to be furnished with a copy of the statement on the case sent by the Local Government

36. For the purpose of an investigation under this Chapter into any charge against a master, engineer or engine driver, or any person holding a certificate granted under Chapter III, the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise.

37. (1) When in the opinion of the Court making an investigation under this Chapter, the investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the

Power of Court of investigation to inquire into charges of incompetency or misconduct

Power for Local Government to direct investigation otherwise than under section 33

Person charged to be heard

Assessors.

certificate of a master, engineer or engine-driver, or any person holding a certificate granted under Chapter III. the Court shall appoint as its assessors for the purposes of the investigation, two persons having experience in the merchant service or in the navigation of inland steam-vessels.

(2) In every other investigation, the Court may, if it thinks fit, appoint as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor.

(3) Every person appointed as an assessor under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings,

38. For the purpose of any investigation under this Chapter. the Court making the investigation shall, so far as relates to compelling the attendance and examination of witnesses, and the production of documents and the regulation of the proceedings, have—

Powers of Court as to evidence and regulation of proceedings.

(a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made ; or

(b) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exercisable respectively by either Court in the exercise of its Criminal jurisdiction.

39. (1) If any Court making an investigation under this Chapter issues a warrant of arrest to compel the attendance of any person whose evidence is in its opinion necessary, it may, for the purpose of effecting the arrest, but subject to any general or special instructions issued by the Local Government in this behalf, authorise any officer to enter any vessel.

Power of Court to effect arrest of witnesses by entry and detention of vessels

(2) An officer so authorized to enter any vessel may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest ; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code. *

(3) No person shall be detained under this section for more than forty-eight hours.

* Act XLV. of 1860.

40. Whenever, in the course of an investigation under this Chapter, it appears to the Court making the investigation that any person has committed within British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, make in this behalf) —

- (a) cause such person to be arrested ;
- (b) commit him or hold him to bail to take his trial before the proper Court ;
- (c) bind over any other person to give evidence at such trial ; and
- (d) exercise, for the purposes of this section, all the powers of a Magistrate of the first-class or of a Presidency Magistrate.

41. (1) Whenever, in the course of a trial referred to in section 40 the evidence of any witness is required in relation to the subject matter, any deposition previously made by him in relation to the same subject matter before any Court making an investigation under this Chapter shall, if authenticated by the signature of the Magistrate or presiding Judge of such Court, be admissible in evidence on proof—

- (a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held ; and
- (b) that the deposition was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(2) A certificate signed by such Magistrate or presiding Judge that the deposition was made in the presence of the accused, and that he had an opportunity of cross-examining the witness shall unless the contrary be proved, be sufficient evidence that it was so made and that the accused had such opportunity.

42. The Court shall, in the case of every investigation under this Chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence recorded and the written opinion of any assessor.

43. Notwithstanding the appointment under section 37 of an assessor or assessors by a Court making an investigation under this Chapter, the exercise of all powers conferred on such Court by this Act shall rest with the Court alone.

44. (1) Whenever any explosion occurs on board any inland steam-vessel, the Local Government may direct that an investigation into the cause of the explosion be made by such persons or persons as it may appoint in this behalf.

Power for Local Government to direct investigations into causes of explosions on steam-vessels.

(2) The person or persons so appointed may, for the purpose of the investigation, enter into and upon the steam-vessel, with all necessary workmen and labourers, and remove any portion of the steam vessel or of the machinery thereof, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion

(3) Every person making an investigation under this section shall be deemed to be public servant within the meaning of the Indian Penal Code*

CHAPTER V.

SUSPENSION AND CANCELLATION OF CERTIFICATES GRANTED UNDER THE ACT

45. Any certificate granted under Chapter III. may be suspended or cancelled by the Local Government by which, or under authority from which, it was granted or by any other Local Government in the following cases, namely :—

Power for Local Government to suspend or cancel certificates in certain cases.

- (a) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any vessel, or loss of life, has been caused by the wrongful act or default of the holder of such certificate, or that the holder of such certificate is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, or
- (b) the holder of such certificate is proved to have been convicted of any non-bailable offence, or
- (c) if, in the case of a person holding a certificate of competency or service as second-class master or serang, or as engine-driver, such person is or has become, in the opinion of the Local Government, unfit to act as a second class master or serang or as an engine driver, as the case may be :

Provided that a certificate shall not be suspended or cancelled under clause (a), unless the Local Government is satisfied that

* Act XLV. of 1860.

the holder of the certificate has, before the commencement of the investigation been furnished with a copy of the report or statement of the case as required by section 34 or section 35, as the case may be

46 Every person whose certificate is suspended or cancelled under this Chapter shall deliver it up to such person as the Local Government which suspended or cancelled it may direct.

Obligation to deliver up suspended or cancelled certificate.

47. If the Local Government which suspends or cancels a certificate under this Chapter is not the Local Government by which, or under authority from which, such certificate was granted the Local Government so suspending or cancelling the certificate shall report the proceedings, and the fact of suspension or cancellation to the Local Government by which, or under authority from which such certificate was granted.

48 (1) Any Local Government may, at any time, revoke any order of suspension or cancellation which it may have made under this Chapter, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate.

Power for Local Government to revoke suspension or cancellation, and to grant new certificate.

(2) A certificate so granted shall have the same effect as a certificate of competency granted under this Act after examination.

CHAPTER VI.

PROTECTION OF, AND CARRIAGE OF PASSENGERS IN INLAND STEAM-VESSELS

49. The Governor-General in Council may, by notification in the Gazette of India declare what shall, for the purposes of this Act, be deemed to be dangerous goods.

Power for Governor-General in Council to declare dangerous goods

Carriage of dangerous goods.

50 (1) No person shall —

- (a) take with him on board an inland steam-vessel any dangerous goods without giving notice of their nature to owner or master of the steam-vessel, or
- (b) deliver or tender for carriage on such steam vessel any dangerous goods without giving such notice, and

44. (1) Whenever any explosion occurs on board any inland steam-vessel the Local Government may direct that an investigation into the cause of the explosion be made by such persons or persons as it may appoint in this behalf.

Power for Local Government to direct investigations into causes of explosions on steam-vessels.

(2) The person or persons so appointed may, for the purpose of the investigation, enter into and upon the steam-vessel, with all necessary workmen and labourers, and remove any portion of the steam vessel or of the machinery thereof, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be public servant within the meaning of the Indian Penal Code*

CHAPTER V.

SUSPENSION AND CANCELLATION OF CERTIFICATES GRANTED UNDER THE ACT

45. Any certificate granted under Chapter III. may be suspended or cancelled by the Local Government by which, or under authority from which, it was granted or by any other Local Government in the following cases, namely :—

Power for Local Government to suspend or cancel certificates in certain cases

- (a) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any vessel, or loss of life, has been caused by the wrongful act or default of the holder of such certificate, or that the holder of such certificate is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, or
- (b) the holder of such certificate is proved to have been convicted of any non-bailable offence, or
- (c) if, in the case of a person holding a certificate of competency or service as second-class master or serang, or as engine-driver, such person is or has become, in the opinion of the Local Government, unfit to act as a second class master or serang or as an engine driver, as the case may be :

Provided that a certificate shall not be suspended or cancelled under clause (a), unless the Local Government is satisfied that

* Act XLV. of 1860.

the holder of the certificate has, before the commencement of the investigation been furnished with a copy of the report or statement of the case as required by section 34 or section 35, as the case may be

46 Every person whose certificate is suspended or cancelled under this Chapter shall deliver it up to such person as the Local Government which suspended or cancelled it may direct.

Obligation to deliver up suspended or cancelled certificate.

47. If the Local Government which suspends or cancels a certificate under this Chapter is not the Local Government by which, or under authority from which, such certificate was granted the Local Government so suspending or cancelling the certificate shall report the proceedings, and the fact of suspension or cancellation to the Local Government by which, or under authority from which such certificate was granted.

Report to other Local Government

48. (1) Any Local Government may, at any time, revoke any order of suspension or cancellation which it may have made under this Chapter, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate.

Power for Local Government to revoke suspension or cancellation, and to grant new certificate.

(2) A certificate so granted shall have the same effect as a certificate of competency granted under this Act after examination.

CHAPTER VI

PROTECTION OF, AND CARRIAGE OF PASSENGERS IN INLAND STEAM-VESSELS

49 The Governor-General in Council may, by notification in the Gazette of India declare what shall, for the purposes of this Act, be deemed to be dangerous goods.

Power for Governor-General in Council to declare dangerous goods.

50 (1) No person shall—

Carriage of dangerous goods.

- (a) take with him on board an inland steam-vessel any dangerous goods without giving notice of their nature to owner or master of the steam-vessel, or
- (b) deliver or tender for carriage on such steam vessel any dangerous goods without giving such notice, and

without distinctly marking their nature on the outside of the package containing the goods.

(2) If the owner or master of an inland steam-vessel suspects, or has reason to believe, that any luggage or parcel taken, delivered, or tendered for carriage on the steam-vessel contains dangerous goods, he may—

- (i) refuse to carry it upon the steam-vessel ; or
- (ii) require it to be opened to ascertain the nature of its contents ; or
- (iii) if it has been received for carriage, stop its transit until he is satisfied as to the nature of its contents.

51. Where any dangerous goods have been taken or delivered

Power of owner or master of steam-vessel to throw over-board dangerous goods	on board any inland steam-vessel in contravention of section 50, the owner or master of the steam-vessel may, if he thinks fit, cause the goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the owner nor the master shall, in respect of his having so caused the goods to be thrown overboard, be subject to any liability, civil or criminal in any Court.
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Power for Local Government to make rules for protection of inland steam-vessels from accidents.

52 (1) The Local Government may make rules for the protection of inland steam-vessels against explosion, fire, collision and other accidents.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the conditions on and subject to which dangerous goods may be carried on board inland steam-vessels ;
- (b) prescribe precautions to be taken to prevent explosions or fires on board inland steam vessels ;
- (c) prescribe the apparatus which is to be kept on board inland steam-vessels, for the purpose of extinguishing fires ;
- (d) regulate the making of sound signals ;
- (e) regulate the carriage and exhibition of lights by inland steam-vessels ;
- (f) regulate the carriage and exhibition of lights by other vessels on specified inland waters on which steam-vessels ply ;
- (g) prescribe the steering rules to be observed ;
- (h) regulate the towing of vessels astern or alongside ;
- (i) prescribe the speed at which inland steam-vessels may be navigated in specified areas ; and

- (j) regulate the navigation of inland steam-vessels to prevent danger to other vessels or to the banks, channels, navigation marks or any property, moveable, or immoveable in or abutting on navigable channels.

(3) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Power for Local Government to make rules as to carriage of passengers in inland steam-vessels.

53. (1) The Local Government may make rules to regulate the carriage of passengers in inland steam-vessels.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the cases in which passengers may be refused admission to, or may be required to leave, inland steam-vessels ;
- (b) provide for the payment of fares, and the exhibition of tickets or receipts (if any) showing the payment of their fares, by passengers in inland steam-vessels ; and
- (c) regulate generally the conduct of passengers in inland steam-vessels.

(3) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with fine which may extend to twenty rupees.

(4) The master or any other officer of an inland steam-vessel, and any person called by him to his assistance, may arrest any person who has committed a breach of any rule made under this section, if the name and address of such person are unknown to the master or such other officer.

(5) The procedure prescribed by section 59 of the Code of Criminal Procedure,* 1898, in the case of arrest by private person shall apply to every arrest made under this section.

Power for Local Government to make rules for protection of passengers.

54. (1) The Local Government may also make rules for the protection of passengers in inland steam-vessels, and may by such rules require—

- (a) the prices of passenger-tickets to be printed or otherwise denoted on such tickets and
- (b) the supply, free of charge, of a sufficient quantity of fresh water for the use of such passengers.

* Act V. of 1898.

(2) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with fine which may extend to fifty rupees.

CHAPTER VII.

PENALTIES AND LEGAL PROCEEDINGS.

55. (1) If any inland steam-vessel proceeds on a voyage in contravention of section 3, the owner and the master of the steam-vessel shall each be punishable with fine, which may extend to one thousand rupees.

(2) If the master or any other officer on board an inland steam-vessel which proceeds on a voyage in contravention of section 3 is a licensed pilot, he shall be liable to have his license as a pilot suspended or cancelled, for any period, by the Local Government.

56. If the certificate of survey is not kept affixed in an inland steam-vessel as required by section 10, the owner and the master of the steam-vessel shall each be punishable with fine which may extend to one hundred rupees.

57. If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate of survey when required under section 14 so to do, he shall be punishable with fine which may extend to one hundred rupees.

58. If an inland steam vessel has on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the vessel or the part thereof is, in the judgment of the surveyor, fit to carry, the owner and the master shall each be punishable with fine which may extend to ten rupees for every passenger over and above that number.

Penalty for serving, or engaging a person to serve, as master or engineer without certificate.

59 If any person—

(a) proceeds on any voyage in an inland steam-vessel as the master or engineer of such vessel without being at the time entitled to, and possessed of a master's or serang's or an engineer's or enginedriver's certi-

ificate, "or a master's or engine driver's licence"* as the case may be, as required under this Act, or

- (b) employs as the master or engineer of an inland steam-vessel any person without ascertaining that he is at the time entitled to, and possessed of, such certificate "or licence"*

he shall be punishable with fine which may extend to five hundred rupees

60. If any master wilfully fails to give notice, as required by section 32, of any wreck, abandonment, damage, casualty, or loss, he shall be punishable with fine which may extend to five hundred rupees, and, in default of payment of such fine, with simple imprisonment for a term which may extend to three months

Penalty for master failing to give notice of wreck, or casualty

61. If any person, whose certificate is suspended or cancelled under this Act, fails to deliver up the certificate as required by section 46, he shall be punishable with fine, which may extend to five hundred rupees.

Penalty for failing to deliver up suspended or cancelled certificate

Penalty for taking or delivering or tendering for carriage dangerous goods on board inland steam vessel without notice

62 If any person, in contravention of section 50, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for carriage on any inland steam vessel, he shall be punishable with fine which may extend to two hundred rupees, and the goods shall be forfeited to Government

Penalty for misconduct or neglect endangering inland steam vessel or life or limb

63 If any person employed or engaged in any capacity on board an inland steam-vessel, by wilful breach or by neglect of duty, or by reason of drunkenness,

- (a) does any act tending immediately to wreck, destroy or materially damage the vessel, or to endanger the life or limb of any person on board, or belonging to the vessel, or

- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage, or for preserving any such person from immediate danger to life or limb,

he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

* Added by Act 6 of 1920.

64. Where the owner or master of an inland steam-vessel is convicted of an offence under this Act or any rule made thereunder committed on board, or in relation to, that steam-vessel, and is sentenced to pay a fine, the Magistrate who passes the sentence may direct the amount of the fine to be levied by distress and sale of the steam vessel and the tackle apparel and furniture thereof, or so much thereof as is necessary

65. Except in the case of an offence against any rule made under section 53, no Magistrate shall try an offence under this Act, or any rule made thereunder unless he is a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class

66. If any person commits an offence against this Act or any rule made thereunder, he shall be triable for the offence in any place in which he may be found or which the Local Government by notification in the local official Gazette appoints in this behalf, or in any other place in which he might be tried under any other enactment for the time being in force

CHAPTER VIII.

SUPPLEMENTAL

67. (1) The Local Government may make rules to carry out the purpose of this Act not otherwise specially provided for.

(2) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both

68. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that all or any of the provisions of the Chapters II and III shall not apply in the case of any specified class of steam-vessels, or shall apply to them with such modifications as may be specified in the notification.

69. Save in so far as the Governor-General in Council may, by notification in the Gazette of India otherwise direct, anything in this Act or any rule made thereunder shall apply to any inland steam-vessel belonging to, or in the service of, His Majesty or the Government of India.

70. The Local Government may, by notification in the local official Gazette, define how much of any tidal water shall be deemed to be an inland water for the purposes of this Act.

Power for Local Government to define tidal water.

Fees recoverable as fines

71. All fees payable under this Act may be recovered as fines under this Act.

72. (1) Subject to the provisions of section 31, every master of an inland steam vessel who possesses a master's certificate granted under this Act and in force on board, in ports to which section 31 of the Indian Ports Act,* 1908, has been extended, shall be deemed, for the purposes of that section, to be the pilot of the vessel of which he is in charge.

(2) Nothing in this section shall be deemed to affect the provisions of Bombay Act I. of 1864, *for the Registry of vessels and levy of pilotage fees on the River Indus*, which require persons in charge of vessels passing through any of the channels or tidal channels at the mouths of the river Indus to pay fees for pilotage.

Application of Act to vessels propelled by electricity or other mechanical power.

73. The provisions of this Act shall also apply to all vessels which ordinarily ply on inland waters and are propelled by electricity or other mechanical power (except steam) :

Provided that the Governor-General in Council may, by notification in the Gazette of India, declare that any provision of this Act shall in its application under this section to such vessels be subject to such modifications, for the purposes of adaptation, as may be specified in the notification.

74. (1) The power to make rules conferred on a Local Government by this Act is subject to the condition of the rules being made after previous publication.

(2) All such rules shall, when made, be published in the local official Gazette and shall thereupon have effect as if enacted in this Act.

75. The enactments mentioned in Schedule II. are repealed to the extent specified in the fourth column thereof.

Repeals and savings.

Provided that all declarations, investigations and surveys made and certificates granted, suspended or cancelled under any of those enactments shall be deemed to have been respectively made, granted, suspended or cancelled under this Act.

SCHEDULE I.
RATES OF FEES,
[See sections 6 (a) and 19 (b)]

			Tons.	Rs.
For steam-vessels of less than			100	25
" "	100 tons and up to	.	200	40
" "	200	" " "	350	50
" "	350	" " "	700	60
" "	700	" " "	1,000	80
" "	1,000	" " "	1,500	100
" "	1,500	" and upwards	..	120

SCHEDULE II.
ENACTMENTS REPEALED
(See section 75.)

Year.	No	Short title.	Extent of repeal.
1884	VI	The Inland Steam-vessels Act, 1884	So much as is unrepealed *
1891	XII.	The Amending Act, 1891	In the Second Schedule, Part I, the entries relating to Act VI, of 1884, and Act III of 1890
"	XIII.	The Inland Steam-vessels Act (1884) Amendment Act, 1891	So much as is unrepealed
1897	XIV.	The Indian Short Titles Act, 1897.	In the Schedule, the entry relating to Act XIII of 1891.
1899	VII	The Inland Steam-vessels Act, 1884, Amendment Act, 1899.	So much as is unrepealed
1900	VI.	The Lower Burma Courts Act, 1900	In the Second Schedule, the entry relating to Act VI. of 1884 *
1914	X.	The Repealing and Amending Act, 1914.	In the Second Schedule, the entries relating to Act XIII of 1891, and Act VII. of 1899
1915	XV.	The Inland Steam-vessels (Amendment) Act, 1915.	The whole Act.

* Certain entry after this repealed by Act 21 of 1923 has been omitted.

ACT NO. II OF 1917.

The Motor Spirit (Duties) Act, 1917.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the
16th February, 1917.*

*An Act to provide for the imposition and levy of certain duties on
motor spirit.*

Whereas it is expedient to impose an excise duty and to increase the existing customs duty on motor spirit ; It is hereby enacted as follows :—

1. (1) This Act may be called the
Short title, extent and duration Motor Spirit (Duties) Act, 1917.

(2) It extends to the whole of British India ,

(3) It shall remain in force during the continuance of the present war, and for a period of six months thereafter.

Definitions.
2. "Manufactory" means any place
where motor spirit is refined or otherwise prepared.

"Motor spirit" means any inflammable hydro carbon (including any mixture of hydro carbons or any liquid containing hydro-carbon) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle.

3. (1) There shall be levied and collected at every manufactory in British India on all motor spirit produced in such manufactory, a duty at the rate of six annas on each imperial gallon
Imposition of excise duty on motor spirit manufactured in British India

Explanation—Motor spirit is said to be produced within the meaning of this section when it is issued out of the premises of the manufactory.

(2) If any duty payable under sub-section (1) is not paid within the time fixed by a notice issued in accordance with any rules made under this Act, the authority to which such duty is payable may, in lieu thereof, recover any sum not exceeding double the amount of the duty so unpaid, which such authority may in its discretion think it reasonable to require.

(3) All sums recoverable under sub-section (1) shall be recovered in the manner prescribed in the Indian Income-Tax

* The word "and" repealed by Act III of 1919 has been omitted.

Act, 1886,* section 30, sub-sections (1), (2) and (3), with respect to the sums therein referred to.

4. (1) After the commencement of this Act, no person shall issue any motor spirit out of the premises of any manufactory except in accordance with the provisions of rules made under this Act in that behalf, or, until such rules are made, in accordance with the general or special orders of the Local Government.

(2) Whoever contravenes the provisions of sub-section (1), shall be punishable with fine which may extend to rupees one thousand or to a sum double the amount of the duty payable on any motor spirit so issued, whichever is greater

5 The Governor-General in Council may, by notification in the *Gazette of India*, declare that any of the provisions of the Sea Customs Act, 1878,† relating to the levy of and exemption from, custom duties, drawback of duty warehousing, offences and penalties, confiscation, and the procedure relating to offences and appeals shall, with such modifications and alterations as he may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty or motor spirit imposed by section 3 and may further, for the purpose of providing for the assessment and collection of the said duty and for purposes ancillary thereto make rules—

- (i) imposing on owners of manufactories the duty of furnishing returns and keeping records and books, prescribe the forms of such returns, records and books and the particulars to be contained therein respectively, and the manner in which the same are to be verified, and all such other conditions thereof as may be necessary,
- (ii) providing for the regulation of the issue of motor spirit out of manufactories, the assessment of the duty, and the issue of notices requiring payment and for the recovery of unpaid duty.
- (iii) providing for the inspection of manufactories and for the taking of samples and for the making of tests of any substance produced therein,
- (iv) generally carrying into effect the purposes thereinbefore specified.

(2) In making any rule under the rule-making power hereinbefore conferred, the Governor-General in Council may declare

* Act II. of 1886.

Act VIII. of 1878.

that any breach thereof shall be punishable with fine which may extend to rupees five hundred.

6. In addition to the duty imposed by section 3 of Indian Tariff Act, 1894, *as subsequently amended read with Schedule II. of the said Act, there shall be levied and collected at every port to which that Act applies a duty at the rate of six annas on each imperial gallon of motor spirit, and this additional duty shall be deemed to be a duty imposed under section 3 of the said Act and that Act shall apply accordingly.

Imposition of additional duty on motor spirit imported into British India.

* Act VIII. of 1894.

ACT NO. V. OF 1917

The Destruction of Records Act, 1917.PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.*Received the assent of Governor-General on the
28th February 1917**An Act to consolidate and amend the law providing for the destruction or other disposal of certain documents in the possession or custody of Courts and Revenue and other public officers.*

WHEREAS it is expedient to consolidate and amend the law providing for the destruction or other disposal of certain documents in the possession or custody of Courts and Revenue and other public officers, It is hereby enacted as follows :—

Short title 1. This Act may be called the Destruction of Records Act, 1917

Definitions 2 In this Act.

(1) "The Chief Controlling Revenue authority" means—

(a) in the presidencies of Fort William in Bengal and Fort St. George and in the United Provinces and Bihar and Orissa,—the Board of Revenue ;

(b) in the presidency of Bombay outside Sindh and the limits of the town of Bombay, - a Commissioner ,

(c) in Sindh,—the Commissioner ;

(d) in the Punjab and Burma,—the Financial Commissioner , and

(e) elsewhere,—the Local Government or such officer as the Local Government may, by notification in the local official Gazette, appoint in this behalf. .

(2) "High Court" means the highest Civil Court of appeal in any local area.

3. (1) The authorities hereinafter specified may, from time to time, make rules for the disposal by destruction or other-wise, of such documents as are in the opinion of the authority making the rules, not of sufficient public value to justify their preservation.

(2) The authorities shall be—

(a) in the case of documents in the possession or custody of a High Court or of the Courts of Civil or Criminal jurisdiction subordinate thereto,—the High Court ;

(b) in the case of documents in the possession or custody of Revenue Courts and officers,—the Chief Controlling Revenue-authority ; and

(c) in the case of documents in the possession or custody of any other public officer,—the Local Government or any officer specially authorised in that behalf by the Local Government.

(3) Rules made under this section by the High Court of Judicature at Fort William in Bengal shall be subject to the previous approval of the Governor General in Council, and rules made by any other High Court, or by a Chief Controlling Revenue authority or by an officer specially authorized in that behalf by a Local Government, shall be subject to the previous approval of the Local Government.

4. All rules and orders directing or authorising the destruction or other disposal of documents in the possession or custody of any public officer, heretofore made by a Local Government, or with the approval of the Local Government by any authority not empowered to make such rules under the destruction of Records Act, 1879,* shall be deemed to have had the force of law from the date on which they were made, and all such rules and orders now in force shall continue to have the force of law until they are superseded by rules made under this Act.

5. Nothing in this Act shall be deemed to authorize the destruction of any document which, under the provisions of any law for the time being in force, is to be kept and maintained.

* Saving of certain documents

6. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof

Repeals.

THE SCHEDULE.

REPEAL OF ENACTMENTS.

(See section 6.)

1	2	3	4
Year.	Number.	Short title.	Extent of repeal.
1879	III.	The destruction of Records Act, 1879.	The whole.
1908	XVI.	The Indian Registration Act, 1908.	The words "and also for the destruction of such books, papers and documents as need no longer be kept" in clause (a) of sub-section (1) of section 69.
1913	II.	The Official Trustees Act, 1913.	Clause (ee) of sub-section (2) of section 30.
"	III.	The Administrator-General's Act, 1913.	Clause (ff) of sub-section (2) of section 50.

ACT NO. VI. OF 1917.

The Indian Tariff (Amendment) Act, 1917.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 7th
March, 1917.*

An Act further to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894 ; * It is hereby enacted as follows :—

Short title and retros- **1** (1) This Act may be called the Indian
pective effect Tariff (Amendment) Act, 1917.

(2) It shall be deemed to have come into force on the first day of March, 1917, and any sums due on account of new duties leviable thereunder, or of any deficiency between the duties which have been paid and the duties which are leviable thereunder, shall be deemed to be duties short levied within the meaning of section 39 of the Sea Customs Act, 1878,† and that Act shall apply accordingly.

2 (Repealed by Act 6 of 1921).

3. In Schedule III. of the said Act—

Amendment of Sche- (i) For item 1 the following shall be
dule III of Act VIII of substituted, namely :—
1894

" 1	RAW JUTE—	Rs. A. P.
	(1) Cuttings Bale of 400 lbs ...	1 4 0
	(2) All other descriptions	4 8 0
(ii) For item 2 the following shall be substituted, namely ;—		
" 2	JUTE MANUFACTURES, when not in actual use as coverings, receptacles, or bindings for other goods—	Rs. A. P.
	(1) Sacking (cloth, bags, twist, yarn, rope and twine). Ton of 2,240 lbs. ...	20 0 0
	(2) Hessians and all other descriptions of jute manufactures not otherwise specified.	32 0 0

* Act VIII. of 1894.

† Act VIII. of 1878.

ACT NO. IX. OF 1917.

The Indian Bills of Exchange (Amendment), Act, 1917.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 13th
March, 1917.*

As Act to the amend the Indian Bills of Exchange Act, 1916.

WHEREAS it is expedient to amend the Indian Bills of Exchange Act, 1916;* It is hereby enacted as follows :—

Short title and duration. 1. (1) This Act may be called the Indian Bills of Exchange (Amendment) Act, 1917.

(2) It shall be in force during the continuance of the present war, and for a period of six months thereafter.

2. In section 2 of the Indian Bills of Exchange Act, 1916,*
Amendment of section 2, of Act XIV. of 1916. before word "payment," wherever that word occurs in the said section, the words "acceptance or" shall be inserted.

* Act XIV. of 1916.

"112. When any person subject to this Act has been convicted by a Court-martial of any offence, the Governor General in Council or the Commander-in-Chief in India or, in the case of a sentence which he could have confirmed or which did not require confirmation, the Officer Commanding the Army, Division or Independent Brigade in which such person at the time of his conviction was serving, or the prescribed officer may—

- (1) pardon the person ;
- (2) mitigate or remit the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act ;
- (3) order the restoration to him of any service or other advantage forfeited under his sentence ;
- (4) readmit him to the service when he has been dismissed therefrom :

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the Court.

Amendment of section 113 (2) of Act VIII. of 1911 6. In section 113 (2) of the said Act, the following sub-head shall be inserted namely —

"(ii) the constitution of authorities to decide for what persons to what amounts and in what manner, provision should be made for dependants under section 52A, and the due carrying out of such decisions "

ACT NO. XII. OF 1917.

The King of Oudh's Estate Validation Act 1917.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 21st
March 1917.*

*An Act to validate certain deeds of conveyance and a trust deed
relating to certain properties of His late Majesty, Wajid Ali
Shah, King of Oudh, and for other purposes.*

WHEREAS doubts have arisen as to the validity of three deeds of conveyance all dated the 23rd November 1901, and a deed of declaration of trust of the same date, copies of which are set out in the Schedule to this Act, and all to which deeds purport to relate to certain properties then or formerly of his late Majesty, Wajid Ali Shah, King of Oudh (hereinafter, in this Act, called the late King), and in the case of the said trust deed to declare the trusts of a certain Emambara, mosque and burial ground, and for the up keep and maintenance thereof to constitute a certain Endowment Fund hereinafter in this Act referred to as the Sibtainabad Endowment Fund ;

AND WHEREAS by the said trust deed it was recited or assumed *inter alia* that a share amounting to rupees two hundred thousand in a certain Government Promissory Note No. 018878 for rupees five hundred thousand standing in the name of Ma kai Kisshore and deposited in the Government Treasury at Lucknow belonged to the estate of the late King, and that the said share was to form a part of the Sibtainabad Endowment Fund, and the interest thereon to be applied with the interest of certain other securities in the said trust deed referred to for the up keep and maintenance of the said Emambara, mosque and burial ground ;

AND WHEREAS all interest from the 1st of March 1901 to the 31st of December 1913 payable in respect of the said share of rupees two hundred thousand in the said Note has been paid and credited to the Sibtainabad Endowment Fund along with the interest of the said other securities and the said Emambara, mosque and burial ground have been kept up and maintained thereout ;

AND WHEREAS it now appears that the said share of rupees two hundred thousand did not, in fact, belong to the estate of the late King, and that on his death the interest thereon was or was intended to be payable to certain of the issue of the said Malkai

Kisshore, and that the inclusion of the interest of the said share in the Sibtainabab Endowment Fund was due to a misapprehension ;

AND WHEREAS there is now standing to the credit of the Sibtainabab Endowment Fund the sum of rupees seventy-seven thousand eight hundred and fifty-six being the accumulated balance after providing for the up-keep and maintenance of the said Emambara, mosque and burial ground ,

AND WHEREAS it is expedient that the said deeds of conveyance and the said trust deed and all acts and things done thereunder should be validated, and that at the same time it should be formally declared that the said share of rupees two hundred thousand no longer forms a part of the Sibtainabad Endowment Fund, and that the interest thereon shall be made available as from the 1st of January 1914, for the persons who may hereafter be deemed entitled thereto under the provisions hereinafter appearing ;

AND WHEREAS it is just and equitable that the said sum of rupees seventy seven thousand eight hundred and fifty-six should be released from the trusts of the said trust deed and should also be made available for distribution amongst the persons so entitled ;

AND WHEREAS it is also expedient to provide for the future management and distribution of the said share of rupees two hundred thousand and of the interest accrued due since the 1st of January 1914, and hereafter accruing due from time to time in respect thereof and also for the distribution of any future surplus monies which may accrue to the said Sibtainabab Endowment Fund after providing for the up-keep and maintenance of the said Emambara mosque and burial ground ;

Is hereby enacted as follows :—

Short title,

1 This Act may be called the King of Oudh's Estate Validation Act, 1917.

2. Notwithstanding anything contained in any enactment or any rule of law to the contrary, the three deeds of conveyance and the trust deed, copies of which are set out in the Schedule, Validation of certain deeds. and all acts and things done under the said deeds are, save as is hereinafter provided, validated and confirmed .

Provided that, with effect from the 1st of January 1914, the said trust deed shall be construed as if no reference had been made therein to the share of rupees two hundred thousand of the said Government Promissory Note, and as if the sum of rupees thirteen thousand six hundred and thirty-four had been mentioned in the twelfth recital thereof instead of the sum of rupees sixteen thousand and the sum of rupees four hundred thousand instead of

the sum of rupees six hundred thousand, and with such further alterations and modifications as this construction may require.

3. The sum of rupees seventyseven thousand eight hundred and fifty-six shall be released from the trusts of the said trust deed, and shall be paid from the surplus monies of the said Sibtainabab Endowment Fund to such officer as the Governor General in Council may appoint, and shall be distributed in the manner hereinafter provided.

4. The sum referred to in section 3 and any further sums which the Governor-General in Council may at any time declare to be surplus monies of the Sibtainabad Endowment Fund as he is hereby empowered to do, and all sums payable in respect of interest on the said share of the said Government Promissory Note accrued due since the 1st of January, 1914, or hereafter to accrue due from time to time in respect thereof, are hereby declared to be pensions, and the said share of the said note is hereby declared to be a grant of money within the meaning of the Pensions Act 1871,* and that Act shall apply to such sums as if they were pensions of the classes referred to in sections 4 and 11 of the said Act and to the said share as if it was a grant of the class referred to in section 4 of the said Act, subject, however, to the following modifications, namely :—

- (i) any claim under section 5 of said Act as applied shall be preferred to such officer as the Local Government may authorise in this behalf ;
- (ii) the power of commutation conferred by section 10 of the said Act shall be exercisable without the consent of the holder where the payment to be made is at a rate less than a rate of rupee one per month ; and
- (iii) the power to make rules conferred by sections 5 and 14 of the said Act shall extend to a power to make rules prescribing the persons or classes of persons to whom, and the principles on which, all distributions under this Act shall be made.

* Act XXIII. of 1871.

ACT NO. XIV. OF 1917.

**The Prevention of Cruelty to Animals
Amendment Act, 1917.**

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 21st
March, 1917.*

An Act to amend the prevention of Cruelty to Animals Act, 1890.

WHEREAS it is expedient to amend the Prevention of Cruelty to Animals Act, 1890;* It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Prevention of Cruelty to Animals (Amendment) Act, 1917.

Insertion of new sections 5A and 5B in Act XI. of 1890. **2.** After section 5 of the Prevention of Cruelty to Animals Act, 1890* (hereinafter referred to as the said Act), the following sections shall be inserted, namely :—

Vide vol. III p. 514.

Insertion of new section 7A in Act XI. of 1890. **3.** After section 7 of the said Act, the following section shall be inserted, namely :—

Vide vol. III. p 515.

Amendment of section 8 of Act XI. of 1890. **4.** In sub-section (2) of section 8 of the said Act after the words and figure "under sub-section (1)," the words, figure and letter "or under section 7A" shall be added.

* Act XI. of 1890.

ACT NO. XV. OF 1917.

**The Indian Registration (Amendment)
Act, 1917.**

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*[Received the assent of the Governor-General on the 13th
September, 1917.]**An Act further to amend the Indian Registration Act, 1908.*

WHEREAS it is expedient further to amend the Indian Registration Act, 1908 ;* It is hereby enacted as follows :

Short title.

1. This Act may be called the India Registration (Amendment) Act, 1917.Insertion of new section
23-A, in Act XVI. of
1908.**2.** After section 23 of the Indian Registration Act, 1908,* the following section shall be inserted, namely :—

Vide vol. IV p. 466

*Act XVI. of 1908

ACT NO. XVI. OF 1917.*

The Patna University Act, 1917.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

*Received the assent of the Governor-General on the 18th
September, 1917.*

An Act to establish and incorporate a University at Patna.

WHEREAS it is expedient to establish and incorporate a University at Patna, to be known as the Patna University ; It is hereby enacted as follows :—

Short title and com-
mencement 1. (1) This Act may be called the Patna University Act, 1917

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, direct.

Definitions 2. In this Act, unless there is anything repugnant in the subject or context,—

“ College ” means a college of the University or an external college ;

“ College of the University ” means the Patna College, the Training College for teachers at Patna, and any other educational institution admitted as a college of the University in accordance with this Act and the Regulations ;

“ External College ” means the Bihar National College, Bankipur, the Patna Law College, the Greer Bhumihar Brahman College, Muzaffurpur, the Tej Narayan Jubilee College, Bhagalpur, the Ravenshaw College, Cuttack, St Columba's College, Hazaribagh, the Diamond Jubilee College, Monghyr, and any other educational institution admitted as an external College in accordance with this Act and the Regulations ;

“ Local Government ” means the Local Government of Bihar and Orissa ;

“ Regulations ” means Regulations for the time being in force of the University ;

“ Senate ” means the University Senate ;

“ Syndicate ” means the University Syndicate ;

“ University staff ” means such persons as may be declared by the Regulations to be members of the University staff ; and

“ University ” means the Patna University.

* This Act has been modified to a certain extent by B. & O Act 2 of 1918.

3 (1) The first Chancellor and Vice-Chancellor of the University, and the first members of the Senate, and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of the Patna University.

(2) The Patna University shall have perpetual succession and a common seal, and shall sue and be sued by the said name

(3) The University shall be deemed to have been incorporated for the purposes, among others, of making provision for imparting education, of promoting original research, of examining students and conferring degrees, of admitting educational institutions to its privileges, and of supervising and controlling the administration of colleges of the University in all matters of education and discipline and of inspecting and supervising external colleges

Authorities and officers of the University. **4.** The following shall be the authorities and officers of the University :—

- (i) the Chancellor ;
- (ii) the Vice-Chancellor ;
- (iii) the Senate ;
- (iv) the Syndicate ,
- (v) the Registrar ; and
- (vi) such other authorities and officers as the Regulations may declare to be authorities or officers of the University

5 (1) The Chancellor shall be "the Governor" * of Bihar and Orissa for the time being.

(2) The Chancellor shall, by virtue of his office, be the head of the University, and shall, when present, preside at Convocation of the University convened for the purpose of conferring degrees and for other purposes.

(3) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

(4) The Chancellor shall finally decide any dispute with regard to the election of any person to be a member of the Senate or Syndicate.

"(5) The Chancellor shall have the right to make an inspection, or to cause an inspection to be made by such person or persons as he may direct of the University, its buildings, laboratories, workshops, and equipment of any institutions associated with the University and also of the examinations, teaching and other work conducted or done by the University, and to make an enquiry or to cause an enquiry to be made in like manner in respect of any

* The words within quotations have been substituted by B O Act I of 1922.

matter connected with the University. The Chancellor shall in every case give notice to the University of his intension to make an inspection or enquiry or to cause an inspection or enquiry to be made, and the University shall be entitled to be represented thereat." *

"(6) The chancellor may, by order in writing, annul any proceeding of the University which is not in conformity with this Act and the Regulations. Provided that, before making any such order, he shall call upon the University to show cause why such an order should not be made, and if any cause is shown within a reasonable time, he shall consider the same"*

6. (1) The Vice-Chancellor shall be appointed by the Local Government, and shall hold office for three years from the date of his appointment, on the expiration of which period, he may be reappointed from time to time, provided that no such reappointment shall be for a longer period than two years.

(2) The Vice-Chancellor shall, when present, preside at every meeting of any University authority of which he is a member and at convocation of the University when the Chancellor is not present.

(3) The Vice-Chancellor shall appoint and control every officer and servant of the University (other than the members of the University Staff) whose aggregate emoluments do not exceed two hundred rupees per mensem

(4) The Vice-Chancellor shall have the right of visiting and inspecting the colleges.

7. (1) The Senate shall consist of not less than sixty and not more than seventy-five ordinary Fellows in addition to the following *ex officio* Fellows namely :—

(i) the Vice-Chancellor,

(ii) "The ministers appointed by the Governor of Bihar and Orissa under section 52 (1) of the Government of India Act, and one member of the Executive Council of the Governor of Bihar and Orissa to be selected by the Governor."†

(iii) the Chief Justice of the High Court of Judicature at Patna ;

(iv) the Bishop of Chota Nagpur ;

(v) the Director of Public Instruction in Bihar and Orissa ; and

* Added by B. and O. Act III of 1923.

† Substituted by B. & O. Act I of 1923.

(vi) the Principals of all colleges in which instruction to a degree standard is given.

(2) The ordinary Fellows of the first Senate shall be the persons specified in the First Schedule, and shall hold office for such period as may be prescribed by the Regulations.

(3) Upon the expiration of the period of office of the first Senate the next and every succeeding Senate shall include, in addition to the *ex-officio* Fellows hereinbefore referred to,—

(i) fifty Ordinary Fellows to be elected in such manner as may be prescribed by the Regulations, of whom—

(a) twenty shall be elected by the teaching staffs of the colleges ;

(b) five shall be elected by the graduate teachers of schools in which instruction to a standard to be prescribed by the Regulations is given ;

(c) fifteen shall be elected by registered graduates other than any who may be included for the time being in the electorates referred to in sub heads (a) and (b), and

(d) ten shall be elected by such associations or public bodies as the Chancellor may from time to time, empower in his behalf. of whom such number shall be elected by each such association or body as the Chancellor may from time to time direct :

Provided that all such elections shall be made subject to such conditions as to the representation on the Senate of all the Faculties of the University and of persons permanently resident in the Orissa Division as shall be prescribed by the Regulations ; and

(ii) not less than ten and not more than twenty-five Ordinary Fellows to be nominated by the Chancellor subject to the Regulations.

(4) Subject to the provisions of this Act and the Regulations, the Senate shall have the entire management of, and superintendence over, the affairs, concerns and property of the University, and shall exercise all the powers of the University, not otherwise provided for.

In particular, and without prejudice to the generality of the foregoing power,

(i) it shall determine—

(a) what degrees and diplomas shall be granted by the University :

(b) the courses of study and the duration thereof ;

(c) the time in a student's career at which such courses shall be taken ;

- (d) what subjects or groups of subjects shall be regarded as qualifying for each degree,
- (e) whether any new subject of instruction shall be included in the curriculum of the University or of any of its colleges, or whether any subject previously taught shall be omitted therefrom
- (f) whether the standard to which instruction is given in any subject shall be raised or lowered, and
- (ii) it shall pass the Budget.

(5) Save on a reference made to it by not less than six members of the Syndicate jointly, the Senate shall not have power to review any act of the Syndicate duly done in the exercise of its powers under this Act or the Regulations in respect of any of the following matters :—

- (a) the appointment of members of the Faculties and Boards of Studies, the determination of the procedure of such Faculties or Boards and of the quorum of members required for the transaction of business;
- (b) the appointment and remuneration of examiners and the determination of their duties and powers,
- (c) the award of scholarships and prizes;
- (d) the arrangements made for teaching during each session, including, the University time-table of courses of instruction and of inter-collegiate lectures and classes;
- (e) the prescription of text-books for the courses of study; and
- (f) the general disciplinary control over the students of the University

8. (1) The Syndicate shall consist of fourteen ordinary members in addition to the following *ex-officio* members namely :—

- (i) the Vice-Chancellor,
- (ii) the Director of Public Instruction in Bihar and Orissa,
- (iii) the Principal of the Patna College, and
- (iv) the Principal of the Ravenshaw College, Cuttack.

(2) The ordinary members of the first Syndicate shall be the persons specified in the Second Schedule, and shall hold office for two years.

(3) Upon the expiration of the period of office of the ordinary members of the first Syndicate, the ordinary members of the next and every succeeding Syndicate shall be elected by the Senate from amongst its members in such manner as may be prescribed by the Regulations, but so as to include—

- (a) at least one person permanently resident in the Orissa Division ,
- (b) not less than seven members of the University staff, or of the teaching staffs of the colleges ;
- (c) not less than three other persons who are not following the profession of education.

(4) In addition to the matters referred to in section 7 (5), the Syndicate, shall determine subject to the provisions of section 7 (4) and the Regulations, the standard of proficiency to be required for ordinary degrees, shall control the courses of study, the examinations and all matters of education in the colleges of the University, and shall be responsible for the supervision and inspection of such matters in the external colleges.

"8A. No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of the existence of any casual vacancy or vacancies among its members".*

Proceedings not to be invalidated by casual vacancies.

Admission of educational institutions as colleges.

9. (1) No educational institution shall be admitted as a college unless the following conditions are complied with, namely :—

- (a) the admission of the, institution as a college has, on application made and after the Syndicate has recorded its opinion on such application, been approved by the Senate and the Local Government ; and
 - (b) all provisions of the regulations relating to the admission of educational institutions as colleges have been substantially complied with.
- (2) No educational institution shall be admitted as a college of the University, unless the following conditions are complied with, namely :—
- (a) the buildings of the institution are situate within the area which has been, or may hereafter be, acquired for the purposes of the University ;
 - (b) all provisions of the Regulations relating to the admission of educational institutions as colleges of the University have been substantially complied with.
- (3) No educational institution shall be admitted as an external college, unless the following conditions are complied with, namely :
- (a) in the case of an educational institution teaching to a degree standard, the buildings of the institution are

* Section 8A has been inserted by B & O. Act III of 1923 and its operation is retrospective by *Ibid* s. 3 (2)

situate in one of the following towns, namely —
Mazaffarpur, Bhagalpur, Cuttack, or Hazaribagh

Provided that this condition may be dispensed with in any particular case if the Governor-General in Council so directs ;

- (b) all provisions of the Regulations relating to the admission of educational institutions as external colleges have been substantially complied with.

Exclusion of a college
from the privileges of
the University,

10 (1) Any member of the Syndicate may bring forward a proposal that a college be deprived either in whole or in part, of its privileges

(2) The Syndicate shall, after affording the governing body of the college all reasonable facilities for stating its objections to the proposal, consider the proposal and transmit a copy of its proceedings, including a copy of any representation which may be made by such governing body thereon, to the Senate.

(3) The Senate shall consider the proposal and shall, if it approves the same either with or without modification, transmit a copy of the proceedings of the Synnicate and of its own proceedings to the Local Government.

(4) The Local Government, after such further inquiry, if any, as may appear to it to be necessary shall, in so far as it agrees with the opinion of the Sente, express its concurrence therewith, and thereupon, the college shall be deprived of such privileges as the decision of the Senate and the Local Government (which shall be communicated to it) may specify.

11. Notwithstanding anything in any other law for the time being in force, no University in British India other than the Patna University shall, after the commencement of this Act admit any educational institution in the province of Bihar and Orissa to any privileges whatever, and any such privileges granted by any such other University to any educational institution in that province prior to the commencement of this Act, shall be deemed to be withdrawn on the commencement of this Act :

Provided that any educational institution which, in accordance with the provisions of this section, has been deprived of any such privileges shall, notwithstanding the provisions of section 9, be deemed to have been granted the like privileges by the Patna University.

12. The members of the University staff shall be appointed by the Chancellor after considering the recommendations of the Syndicate and the University Staff.
Senate :

Provided that, in the case of a person paid from the funds of the University whose term of appointment does not extend beyond a total period of six months the appointment shall rest with the Syndicate subject to the sanction of the Chancellor

13. The accounts of the University shall, once at least in every year, and at intervals of not more than fifteen months, be audited by auditors appointed by the Local Government, and a copy of the accounts, together with the auditors' report, shall be published in the local Official Gazette.

14 (1) Subject to the provisions of the this Act, Regulations—

- (i) shall provide for the following matters :—
 - (a) the election and all matters connected therewith of Ordinary Fellows or members of the Senate and Syndicate and so as to include provisions for the adequate representation of all the Faculties of the University among the Fellows to be elected by the teaching staffs of the colleges ;
 - (b) the inclusion of persons permanently resident in the Orissa division among the nominated and elected Fellows of the Senate ;
 - (c) the duration of the term of office of the ordinary Fellows or members of the Senate and Syndicate ;
 - (d) the maintenance for the purpose of constituting the electorate referred to in section 7 (3) (i) (c) of a register of graduates including, for such period as may be thereby prescribed, graduates of any other University who are ordinarily resident in Bihar and Orissa, and the conditions subject to which entries may be made therein ; and
 - (e) the procedure to be followed at meetings of the Senate ; and the Syndicate and the quorum of Fellows or members required to be present for the transaction of business and
- (ii) may provide for all or any of the following matters :—
 - (a) the constitution, powers and duties of the Faculties, Boards of Studies, or such other authorities or bodies, as it may be deemed necessary, from time to time, to appoint ;
 - (b) the conditions of appointment and the powers and duties of the Registrar, Professors and other officers of the University, whether being members of the University staff or not ;
 - (c) the constitution and functions of the governing bodies of the colleges :

- (d) the admission of educational institutions as colleges, and the withdrawal of privileges from colleges so admitted ;
- (e) the admission of students to the University and their examination ,
- (f) the residential arrangements for students of the University ;
- (g) the mode of appointment and duties of examiners ;
- (h) the conferment and withdrawal by the University of degrees, diplomas, certificates and other academic distinctions ;
- (i) the general discipline and control of the University and of the colleges of the University ;
- (j) the accounts to be kept and the use to be made of the funds of the University ; and
- (k) generally for carrying out the provisions of this Act.

(2) The first Regulations shall be drafted by the Vice-Chancellor, who shall submit the draft to the Senate for consideration. The Senate shall consider the draft and submit the same, with such additions and alterations as it considers necessary, to the Local Government. The Local Government shall, if it accepts the draft as settled by the Senate, sanction the same. If it considers that any additions to, or alterations in, the draft are necessary, it shall submit the draft with its proposals for the orders of the Governor-General in Council, and the first Regulations shall be the draft with such alterations or additions as he may sanction.

(3) If the Senate does not submit to the Local Government the draft of the Regulations within two months from the date on which it was first laid before that authority by the Vice-Chancellor the Local Government may make the first Regulations, which when sanctioned by the Governor-General in Council shall have the same force as if they had been sanctioned under subsection (2),

(4) The Senate may, from time to time, make new or additional Regulations, or may amend or repeal the Regulations.

(5) The Syndicate may from time to time lay before the Senate any proposals for new Regulations or for the amendment or repeal of any of the existing Regulations, and it shall be the duty of the Senate duly to consider all such proposals.

(9) All new Regulations, or additions to the Regulations, or amendments to, or repeals of, the Regulations shall require the previous sanction of the Local Government, which may sanction, disallow, to remit the same for further consideration.

THE FIRST SCHEDULE.

[See section 7 (2)]

ORDINARY FELLOWS OF THE FIRST SENATE.

1. The Hon'ble Mr. Justice Edmund Pelly Chapman.
2. The Hon'ble Mr. Justice Basanta Kumar Mullick, B.A. (Cantab.).
3. The Hon'ble Mr. Justice Francis Reginald Roe.
4. The Hon'ble Mr. Justice Cecil Atkinson, K.C.
5. The Hon'ble Mr. Justice Jwala Prashad, B.A., LL.B., (Alld.).
6. The Hon'ble Justice Sir Ali Imam, K.C.S.I.
7. The Hon'ble Mr. E. H. C. Walsh, C.S.I., Member, Board of Revenue.
8. The Hon'ble Raja Rajendra Narayan Bhanja Deo of Kanika.
9. The Hon'ble Rai Bahadur Krishna Sahay, B.A., B.L., (Cal.).
10. The Hon'ble Mr. Mazharul Haq, Bar-at-Law.
11. The Hon'ble Mr. H. LeMesurier, C.S.I., C.I.E., Commissioner, Orissa Division.
12. The Hon'ble Mr. Ahsan-ud din Ahmad, I.S.O.
13. The Hon'ble Mr. C. E. A. W. Oldham, Commissioner, Patna Division.
14. The Hon'ble Mr. H. McPherson, Chief Secretary to Government.
15. The Hon'ble Colonel G. J. H. Bell, C.I.E., I.M.S., Inspector-General of Civil Hospitals.
16. The Hon'ble Mr. L. C. Adami, Legal Remembrancer and Secretary to the Legislative Council.
17. The Hon'ble Mr. Madhu Sudan Das, C.I.E., M.A., B.L. (Cal.).
18. The Hon'ble Rai Bahadur Nishi Kanta Sen.
19. The Hon'ble Raja Kirtyanand Sinha, B.A. (Alld.).
20. The Hon'ble Mr. W. A. Ironside.
21. The Hon'ble Khan Bahadur Saiyid Ahmed Hussain.
22. The Hon'ble Khan Bahadur Khwaja Muhammad Nur, B.A., B.L. (Cal.).
23. The Hon'ble Rai Bahadur Dwarika Nath, B.A., LL.B., (Alld.).
24. The Hon'ble Rai Bahadur Purnendu Natayan Singh, M.A., B.L., (Cal.).
25. The Hon'ble Babu Gopabandhu Das, B.A., B.L. (Cal.).
26. Mr. Sharf-ud-din, Bar-at-Law.
27. Mr. Hassan Imam, Bar-at-Law.
28. Mr. Sachchidananda Sinha, Bar-at-Law.
29. Khan Bahadur Saiyid Muhammad Fakhr-ud-din, B.A., B.L., (Cal.).

30. Mr. P. Kennedy, M A., (Cal.), P.R.S., Muzaffarpur.
31. Mr. R. L. Ross, M.A., (Oxon.), District Judge, Patna.
32. Mr. T. S. Macpherson, M A., (Edin), District Judge.
33. Dr. D. B. Spooner, B.A., Ph. D.
34. Dr. A. McWilliam, D. Sc., Imperial Metallurgist, Sakchi.
35. Babu Rajindra Prasad, M.A., M.L.
36. Mr. G. E. Fawcus, M.A. (Oxon),
37. Dr. K. S. Caldwell, B Sc (Wales). M A., ph.D. (Leipzig),
F.I.C. F.C.S.
38. Mr.E.A. Horne, M.A. (St. Andrew's University),
39. Mr. W. V. Duke, B.A (R. U I.), M.A., (T.C.D.),
40. Mr. R. Mocombe, B A. (T.C D).
41. Mr F. R. Blair, M. A. (Edin)
42. Mr. W. W. Thompson Moore, B.A. (T.CD.).
43. Mr. Owston Smith, M.A. (Cantab),
44. Mr J. S Armour, MA (Glasgow).
45. Mr. P. O. Whitlock, B A (Cantab.), BA. (Victoria).
46. Mr. R. P. Khosla, B A. (Oxon).
47. The Hon'ble Babu Braja Sundar Das.
48. The Rev. G J. Dann.
49. The Rev. Father Van Hoeck.
50. The Rev. G C Forrester.
51. The Rev. H G S Kennedy, MA. (T.C.D.).
52. Babu Sarat Chandry Ray, MA. B L
53. Mr A Howard, M.A., C.I.E
54. Mr. C S Taylor, Principal. Sabour Agricultural College.
55. Mr. R. W. F Shaw, M.A (Aberdeen).
56. Mr. F. Walford, A.R.C.S., M.I.M.E., Principal, Bihar
School of Engineering.
57. Rai Bahadur Jogesh Chandra Ray, M.A. (Cal).
58. Rai Bahadur Bhagavati Sahay M.A., B.L. (Cal).
59. Mr. Ashutosh Chattarji, M A. (Cal).
60. Mr. Jyotish Chandra Banerji, M A., (Cal).
61. Mr. Gopal Chandra Ganguli, M.A., (Cal).
62. Pandit Ramavatar Sharma, M.A., (Cal).
63. Mr. Atul Chandra Ganguli, B.A. (Cal).
64. Mr. Barada Kanta Chatterji, M.A., B.L. (Cal).
65. Pandit Kashi Nath Das, M A. (Cal.).
66. Khan Sahib Muhammad Yasin.
67. Mr. Sharat Chandra Mazumdar, M.A. (Cal.).
68. Mr Mohini Mohan Senapati, M.A. (Cal).
69. Mr Jogindra Nath Mamaddar, B.A (Cal).
70. Khan Sahib Abdul Muqtadir.
71. Pandit Amareshwar Thakur, M.A., (Cal.), Professor, Behar
National College.
72. Mr. Bir Chandra Sinha, M.A. (Cal), Professor, Tej
Narayan Jubilee College

73. Shams-ul-ulama Maulvi Saiyid Amjad Ali, M.A. (Alld).
 74. The Principal of the Sanskrit College, Muzaffarpur.
 75. Khan Bahadur Saiyid Zamir-ud-din Ahmad.
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THE SECOND SCHEDULE.

[See section 8 (2).]

ORDINARY MEMBERS OF THE FIRST SYNDICATE.

1. The Hon'ble Justice Sir Ali Imam, K C.S I.
 2. The Hon'ble Rai Bahadur Krishna Sahay.
 3. The Hon'ble Mr. C. E. A. W. Oldham, I.C.S., Commissioner, Patna Division.
 4. The Hon'ble Mr. Madhu Sudan Das, C.I.E
 5. The Hon'ble Mr. Mazharul-Haque, Bar.-at-Law.
 6. The Hon'ble Rai Bahadur Dvarika Nath.
 7. Mr. Sharf-ud-din, Bar.-at Law.
 8. The Right Rev. Foss Westcott, Bishop of Chota Nagpur.
 9. Dr. K. S. Caldwell.
 10. Mr. E. A. Horne.
 11. Mr. W. Owston Smith.
 12. Mr. Ram Prosad Khosla, Offg. Principal, Greer Bhumihar Brahman College.
 13. Mr. D. N. Sen, Principal, Bihar National College.
 14. Mr. N. N. Raye, Principal, Tej Narayan Jubilee College.
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ACT NO. XVII. OF 1917.

The Government Savings Banks (Amendment) Act, 1917.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 19th September,
1917.*

An Act to amend the Government Savings Banks Act, 1873.

WHEREAS it is expedient to amend the Government Savings Banks Act, 1873 ; * It is hereby enacted as follows :—

Short title	1. This Act may be called the Government Savings Banks (Amendment) Act, 1917.
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Amendment of sections 4 and 8, Act V. of 1873.	2. In section 4 and section 8 of the Government Savings Banks Act, 1873,* for the words "one thousand rupees" the words "three thousand rupees" shall be substituted.
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* Act V. of 1873.

ACT NO. XVIII. OF 1917,

The Post Office Cash Certificates Act 1917.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 19th
September, 1917.*

*An Act to restrict the transfer of Post Office 5-year Cash
Certificates and to provide for the payment of Certificates
standing in the name of deceased persons.*

Whereas it is expedient to restrict the transfer of Post Office 5-year Cash Certificates and to provide for the payment of Certificates standing in the name of deceased persons ; It is hereby enacted as follows :—

Short title

1. This Act may be called the Post Office Cash Certificates Act, 1917.

2. (1) Notwithstanding any provision in any enactment or any rule of law for the time being in force to the contrary, no transfer (whether made before or after the commencement of this Act) of a Post Office 5 year Cash Certificate shall be valid without the previous consent in writing of "an officer of the Post office authorised by general or special order of the Governor-General in Council in that behalf"†

(2) In this section "transfer" means a transfer *inter vivos* and does not include a transfer by operation of law.

3. (1) If a person dies and is at the time of his death the holder of a Post Office 5-year Cash Certificate, payment of the sum for the time being due on such certificate may be made in the manner provided in the Government Saving Banks Act, 1873,* for the payment of deposits, belonging to the estates of deceased persons, and the provisions of sections 4 to 9 of the said Act shall apply accordingly as if the holder of such Certificate were a depositor in a Government Saving Bank and the sum for the time being due on such Certificate were a deposit in such a Bank: "and as if for the words 'three thousand' in sections 4 and 8 of the said Act the words 'five thousand' were substituted".†

* Act V. of 1873.

† The words within quotations have been added by Act 32 of 1920.

Provided that the powers conferred by the said provisions on the Secretary of a Government Savings Bank shall be exercisable by the Post Master General for the area within which the post office of issue of such Certificate is situate :

Provided further that, where in any one case payment is to be made of Certificates issued from more post offices than one, the said powers shall be exercisable by the Post Master General for the area in which any of the said post office is situate

(2) Nothing in sub-section (1) shall be deemed to require any person to accept payment of the amount due on a Post Office 5-year Cash Certificate before the same has reached maturity.

ACT NO. XXII. OF 1917.

The Gold (Import) Act, 1917.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

*Received the assent of the Governor-General on the 27th
September, 1917.**An Act to provide for the acquisition of gold imported into
British India.*

WHEREAS it is expedient to provide for the acquisition by the Governor-General in Council of gold imported into British India ; It is hereby enacted as follows :—

Short title, extent, and duration. **1.** (1) This Act may be called the Gold (Import) Act, 1917 ;

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas ; and

(3) It shall remain in force during the continuance of the present war, and for a period of six months thereafter

2. In this Act, unless there is anything repugnant in the subject or context,—

“coin” means metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign power in order to be so used ,

“gold” means gold coin or gold bullion ;

“import” means the bringing by sea or land into British India.

3. (1) Subject to the provisions of this Act the Governor-General in Council or any person appointed by him in this behalf may, by order in writing, within ten days from the date of import, take possession of any gold imported into British India and such gold shall thereupon vest absolutely in His Majesty

(2) Where any gold is taken possession of in exercise of the powers conferred by sub-section (1), the Governor-General in Council shall pay to the owner thereof, on production of such documents as the authority making the order under sub-section (1) may require, a sum in respect of such gold calculated at such rate as the Governor General in Council may prescribe.

(3) If any dispute arises as to the fineness of any such gold a certificate of assay by the Assay Master of any Mint established under the Indian Coinage Act, 1906,* shall be conclusive.

Repeal of Ordinance III. of 1917. **4.** The Gold (Import) Ordinance, 1917,† is hereby repealed,

* Act III. of 1906. Act III. of 1917.

ACT NO. XXIII. OF 1917.

The Presidency Small Causes Courts (Amendment) Act, 1917.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

Received the Governor-General on the 27th September, 1917.

An Act further to amend the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient further to amend the Presidency Small Cause Courts Act, 1882,* It is hereby enacted as follows:—

1. This Act may be called the Presidency Small Cause Courts (Amendment) Act, 1917.

2. For the provisos in section 7 of the Presidency Small Cause Courts Act, 1882,* the following shall be substituted, namely:—

“Provided that—

(1) no person shall be appointed to be Chief Judge of a Small Cause Court unless he is—

(a) an advocate of a High Court of Judicature established under the Indian High Courts Act, 1861,† or the Government of India Act, 1915,† or

(b) a vakil or attorney of one of the said High Courts,

(2) no person shall be appointed to be a Judge of a small Cause Court unless he is—

(a) an advocate, vakil or attorney of one of the said High Courts, or

(b) a Judge of a Court of Civil Judicature of not less than 5 years' standing, and

(3) of the persons so appointed to be Judges, including the Chief Judge, not less than one third shall be advocates of one of the said High Courts.”

* Act XV. of 1882.

† 24 & 25 Vict., c. 104.

‡ 5 & 6 Geo. 5, c. 61.

ACT NO. XIV. OF 1917.

The Repealing and Amending Act, 1917.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the
27th September, 1917.*

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain formal amendment should be made in the enactments specified in the First Schedule.

AND WHEREAS it is also expedient that certain enactments specified in the Second Schedule, which have ceased to be in force otherwise than by express specific repeal, or have become unnecessary, should be expressly and specifically repealed; It is hereby enacted as follows.—

Short title 1. This Act may be called the Repealing and Amending Act, 1917.

2 The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Amendment of certain enactments. 3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Repeal of certain enactments. 4 The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ;

Savings.

and this Act shall not affect the validity, invalidity effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued, or incurred or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

AMENDMENTS.

(See section 2).

1	2	3	4
Year.	No.	Short title.	Amendments
1870	VII.	The Court-fees Act, 1870	<p>In section 2, clause (a), after the words "St George," the words "the Presidency of Fort William in Bengal" shall be inserted ; and for the word "Bengal," the words "Bihar and Orissa" shall be substituted</p> <p>In section 3, for the words Statute 24 and 25 Victoria, Chapter 104, section 15" the following shall be substituted, namely :—</p> <p>"section 15 of the Indian High Courts Act, 1881, or section 107 of the Government of India Act, 1915."</p>
1872	IX.	The Indian Contract Act, 1872	<p>In section 133, after the word "principal" the word "debtor" shall be inserted.</p>
1897	X.	The General Clauses Act, 1897	<p>In section 3, to each of clauses (3a), (5) (5a), (6), (8a), (8b), (30), (44a), (46) and (55a), the following shall be added, namely :—</p> <p>'or the Government of India Act, 1915 "</p> <p>In section 5, for sub-section (2), the following shall be substituted, namely :—</p> <p>"(2) where any Act of Governor-General in Council is reserved, under section 68 of the Government of India Act, 1915, for the signification of his Majesty's pleasure thereon, then, if no later date is expressed, it shall come into operation, if assented to by His Majesty, on the day on which that assent is duly notified "</p> <p>To section 30, the following shall be added, namely :—</p> <p>"or section 72 of the Government of India Act, 1915 "</p>

THE FIRST SCHEDULE—*concl'd.*

AMENDMENTS.

(See section 2)

1	2	3	4
Year	No.	Short title	Amendments
1908	V.	The Code of Civil Procedure, 1908.	In section 127, for the word "sanctioned" the word "approved" shall be substituted. In section 130, for the word "sanction" the word "approval" shall be substituted.
1912	VI.	The Indian Life Assurance Companies Act, 1912	In section 28, for the words "publish in the <i>Gazette of India</i> and cause to be published in the local official Gazette of the Province in which the life assurance company has its principal place of business" the following shall be substituted, namely—"cause to be published in such manner as he may direct, a summary of." And in the same section after the words "the preceding year" the words "by every life assurance company" shall be inserted and for the words "such accounts, balance-sheets, abstracts, statements or other documents" the words "such summary" shall be substituted.
1916	I.	<i>Regulation by the Governor-General in Council.</i> The Arakan Hill District Laws Regulation, 1916.	In Schedule 1, Part I, for the words "The Indian Airships Act, 1911" the words "The Indian Aircraft Act, 1911" shall be substituted.

THE SECOND SCHEDULE.

REPEALS.

(See section 3.)

1	2	3	4
Year	No.	Short title.	Extent of repeal
1872	IX.	The Indian Contract Act, 1872	The second <i>Illustration</i> to section 21.
		<i>Regulation by the General-General in Council.</i>	
1898	IV.	The Peshawar Canals Regulation, 1898.	The whole Regulation, with effect from the 19th day of February, 1907.

ACT NO. XXVI. OF 1917.

The Transfer of Property (Validating) Act, 1917.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 27th
September, 1917.*

*An Act to validate certain transfers of property made prior to the
1st of January, 1915.*

WHEREAS it is expedient to validate certain transfers of property made prior to the 1st of January, 1915; It is hereby enacted as follows :—

Short title and extent. **1.** (1) This Act may be called the Transfer of Property (Validating) Act, 1917.

(2) It shall extend, in the first instance, to the United Provinces of Agra and Oudh provided that the Governor-General in Council may, by notification in the *Gazette of India*, extend it to any other part of British India specified in the notification.

2. Where a mortgage or gift purports to have been effected by an instrument executed prior to the 1st of January, 1915, and such instrument is required by the Transfer of Property Act, 1882,* to be attested, such mortgage or gift shall not be deemed to be invalid by reason only that any person who purported to attest such instrument as a witness did not see the executant sign it, provided that such person before signing his name on the instrument received from the executant a personal acknowledgment of his signature to the same.

3. Where a claim under any such instrument executed prior to the 1st of January, 1915, has been wholly or in part dismissed, rejected, or withdrawn, after the 30th day of July, 1912 and before the commencement of this Act, in a Court of first instance or of revision or appeal, by reason only of the fact that some person who purported to attest such instrument as a witness, on having received before signing his name thereon a personal acknowledgment from the executant of his signature to the same, did not see the executant sign it, the case may, if the dismissal, rejection or withdrawal has had the effect of invalidating, in whole or in part, the said instrument as between persons claiming thereunder, be restored on review in accordance with the procedure provided by the Code of Civil Procedure, 1908,† for review of judgments, on

* Act IV. of 1882.

† Act V. of 1908.

application in writing made within six months from the commencement of the Act ; and on such restoration, the provisions of section 2 shall apply to such instrument :

Provided nevertheless—

- (1) that every Court to whom such an application is made shall have a discretion to refuse the same if it is of opinion that such restoration would prejudice the rights of any transferee for value in good faith under any transfer made subsequent to the said 33th day of July 1912 :
- (2) that in the event of a decree being passed upon such application in favour of the applicant or his legal representative interest shall only be allowed under such instrument at the contractual rate up to the date of the original dismissal, rejection or withdrawal of such claim, and for a period of six months therefrom, and at the rate of 6 per cent. thereafter until realization ; and
- (3) that in the event of the case being so restored the Court shall be bound by the finding of the former Court, by or before whom the case was dismissed, rejected or withdrawn, on any issue of fact which was heard and finally determined by it.

ACT NO. I. OF 1918.

The Indian Forest (Amendment) Act 1918.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

*Received the assent of the Governor-General on the 27th
February, 1918*

An Act further to amend the Indian Forest Act, 1878.

Whereas it is expedient further to amend the Indian Forest Act, 1878 ;* It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Forest (Amendment) Act, 1918.

2. In clause (b) of section 29 of the Indian Forest Act, 1878* (hereinafter referred to as the said Act), for the word "twenty" the word "thirty" shall be substituted,

Amendment of section 29, Act VII. of 1878.

Insertion of new section 52A, Act VII. of 1878

3. After section 52 of the said Act, following section shall be inserted, namely:—

"52A. Any Forest-officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, boats, carts or cattle under the provisions of section 52 may release the same on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made."

Power to release property seized under section 52.

4. In section 63 of the said Act after the words "without unnecessary delay" the words "and subject to the provisions of this Act as to release on a bond" shall be inserted.

Amendment of section 63A, VII. of 1878.

Insertion of new section 63A, Act VII. of 1878.

5. After section 63 of the said Act, the following section shall be inserted, namely :—

"63A. Any Forest officer of a rank not inferior to that of a Ranger who, or whose subordinate has arrested any person under the provisions of section 63 may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police-station."

Power to release on a bond a person arrested

* Act VII. of 1878.

6. (1) Section 78 of the said Act shall be re-numbered section 78 (1), and in the same section for the words "shall assist any Forest officer or Police officer—

- (a) in extinguishing any fire occurring in such forest ;
 - (b) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest,"
- the following words shall be substituted, namely —

"shall forthwith take steps whether so required by any Forest-officer or Police officer or not—

- (a) to extinguish any forest-fire in such forest of which he has knowledge or information ;
- (b) to prevent by any lawful means in his power any fire in the vicinity or such forest of which he has knowledge or information from spreading to such forest."

(2) To the same section the following sub-section shall be added, namely :—

"(2) Any person who, being bound so to do, without lawful excuse (the burden of proving which shall lie upon such person) fails—

- (a) to furnish without unnecessary delay to the nearest Forest-officer or Police officer any information required by sub section (1) ;
- (b) to take steps as required by sub-section (1) to extinguish any forest-fire in a reserved or protected forest ;
- (c) to prevent as required by sub-section (1). any fire in the vicinity of such forest from spreading to such forest ; or
- (d) to assist any Forest-officer or Police-officer demanding his aid in preventing the commission in such forest of any forest offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender ,

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Amendment of section 84, Act VII. of 1878

7. In section 84 of the said Act,—

(1) for the words "in compliance with any rule under this Act" the words "in accordance with any provision of this Act or in compliance with any rule made thereunder" shall be substituted ;

(2) for the word "instrument" wherever it occurs the words "bond or instrument" shall be substituted.

ACT NO. II. OF 1918.

The Cinematograph Act, 1918.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 6th.
March, 1918*

*An Act to make provision for regulating exhibitions by means of
Cinematograph.*

WHEREAS it is expedient to make provision for regulating exhibitions by means of cinematographs ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Cinematograph Act, 1918.

(2) It extends to the whole of British India, including British Baluchistan.

"(3) The Governor-General in Council may, by notification in the Gazette of India, direct that the whole or any of its provisions shall come in the force in any province or part of a Province on such date as may be specified in the notification." *

Definitions

2 In this Act, unless there is anything repugnant in the subject or context—

"Cinematograph" includes any apparatus for the representation of moving pictures or series of pictures ;

"Place" includes also a house, building, tent or vessel ; and
"Prescribed" means prescribed by rules made under this Act.

3. Save as otherwise provided in this Act, no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Act, or otherwise than in compliance with any conditions and restrictions imposed by such license.

4. The authority having power to grant licenses under this Act (hereinafter referred to as the "licensing authority") shall be the District Magistrate, or, in a Presidency-town or in the town of Rangoon, the Commissioner of Police ;

Provided that the Local Government may, by notification in the local official Gazette, constitute for the whole or any part of a Province such other authority as it may specify in the notification to be the licensing authority for the purposes of this Act.

* Substituted by Act 23 of 1919.

Restrictions on powers of licensing authority

5. (1) The licensing authority shall not grant a license under this Act unless it is satisfied that—

(a) the rules made under the Act have been substantially complied with and

(b) adequate precautions have been taken in the place in respect of which the license is to be given to provide for the safety of persons attending exhibitions therein.

(2) A condition shall be inserted in every license that the licensee will not exhibit, or permit to be exhibited, in such place any film other than a film which has been certified as suitable for public exhibition by "an authority constituted under section 7" and which, when exhibited, displays the prescribed mark of that authority, and has not been altered or tampered with in any way since such mark was affixed thereto.

(3) Subject to the foregoing provisions of this section, and to the control of the Local Government, the licensing authority may grant licenses under this Act to such persons as it thinks fit, and on such terms and conditions and subject to such restrictions as it may determine.

6. (1) If the owner or person in charge of a cinematograph Punishment for contravention of this Act and rules made thereunder, uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used, in contravention of the provisions of this Act or the rules made thereunder, or of the conditions and restrictions upon or subject to which any license has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues, and his license (if any) shall be liable to be revoked by the licensing authority.

(2) If any person is convicted of an offence punishable under this Act committed by him in respect of any film, the convicting Court may further direct that the film shall be forfeited to His Majesty.

"7.* (1) Any Local Government authorised in this behalf by the Governor-General in Council may, by notification in the local official Gazette, constitute as many authorities as it may think fit for the purposes of examining and certifying films as suitable for public exhibition, and declare the area (hereinafter referred to as the 'local area') within which each such authority shall exercise the powers conferred on it by this Act. Where an authority so constituted consists of a Board of two or more persons, not more than one half of the members thereof shall be persons in the service of Government.

* Substituted by Act 23 of 1919.

(2) If any such authority after examination considers that a film is suitable for public exhibition, it shall grant a certificate to that effect to the person applying for the same, and shall cause the film to be marked in the prescribed manner. The certificate of any such authority shall, save as hereinafter provided, be valid throughout the territories in which this Act is in force.

(3) (a) If the authority is of opinion that a film is not suitable for public exhibition in the local area, it shall inform the person applying for the certificate of its decision, and such person may, within thirty days from the date of such decision, appeal for a reconsideration of the matter by the Local Government by which the authority was constituted.

(b) If the Local Government rejects the appeal it shall, by notification in the local official Gazette, direct that the film shall be deemed to be an uncertified film in that local area, and such direction shall have effect notwithstanding the subsequent grant of a certificate in respect of the film by any other such authority.

(4) Any such authority may demand the exhibition before itself of any certified film which it has reason to believe is about to be publicly exhibited in its local area, and may by order suspend the certificate of any such film pending the orders of the Local Government, and during such suspension the film shall be deemed to be an uncertified film in that area.

(5) The District Magistrate, or, in a Presidency town or in the town of Rangoon, the Commissioner of Police, may by order suspend the certificate of any film pending the orders of the Local Government, and during such suspension the film shall be deemed to be an uncertified film in that district or town.

(6) A copy of any order of suspension made under sub-section (4) or (5), together with a statement of reasons therefor, shall forthwith be forwarded by the authority or the officer making the same to the Local Government by which the authority was constituted or to which the officer is subordinate, as the case may be, and such Local Government may, in its discretion, either discharge the order or, by notification in the local official Gazette, direct that the film shall be deemed to be an uncertified film in the whole or any part of the Province.

(7) A Local Government may, of its own motion, by notification in the local official Gazette, direct that a certified film shall be deemed to be an uncertified film in the whole or any part of the Province.

(8) The exhibition of a film to which any order or direction under clause (b) of sub-section (3) or sub-section (4), (5), (6) or (7) is for the time being applicable shall, in the area to which such order or direction relates, be deemed to be a contravention of the condition mentioned in sub-section (2) of section 5."

8. (1) The Governor-General in Council may make rules for the purpose of carrying into effect the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, rules under this section may provide for—

(a) the regulation of cinematograph exhibitions for securing the public safety ;

(b) the procedure of the authorities constituted for examining and certifying films as suitable for public exhibition, and all matters ancillary thereto, and the fees to be levied by those authorities ;

“(bb) the appointment of officers subordinate to authorities constituted under section 7 and the regulation of the powers and duties of such officers ; and ” *

(c) any other matter which by this Act is to be prescribed.

“(3) The Governor-General in Council may delegate to a Local Government subject to such conditions and restrictions as he may impose, the power to make rules regarding all or any of the matters mentioned in sub-section (2) so far as regards the territories subject to that Government ” †

(4) All rules made under this Act shall be published in the *Gazette of India*, or the local official Gazette, as the case may be and, on such publication, shall have effect as if enacted in this Act.

9. The Local Government may by order in writing exempt, subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Act or of any rule made thereunder.

Power to exempt.

* Inserted by Act 23 of 1919.

† Substituted by Act 23 of 1919.

ACT NO. IV. OF 1918.

The Indian Coinage (Amendment) Act, 1918

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.
Received the assent of the Governor-General on the 6th March, 1918.

An Act further to amend the Indian Coinage Act, 1906

WHEREAS it is expedient further to amend the Indian Coinage Act, 1906 ; * It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Coinage (Amendment) Act, 1918.

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, direct.

2. In section 4 of the Indian Coinage Act, 1906* (hereinafter referred to as the said Act), the words "and (d) an eighth of a rupee, or two-anna piece" shall be omitted.

3. In sub-section (2) of section 5 of the said Act, for the third and fourth items in the table annexed to the proviso, the following shall be substituted, namely :—

" Quarter-rupee.	Seven-thousandths	Three-thousandths."
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4. For section 6 of the said Act, the following section shall be substituted, namely :—

"6. The following nickel coins only shall be coined at the Mint for issue under the authority of the Governor-General in Council, namely : a two-anna piece and a one-anna piece."

5. In section 7 of the said Act, for the words "one-anna piece shall be sixty grains Troy," the words "two-anna and one-anna pieces shall be ninety and sixty grains Troy, respectively," shall be substituted.

6. In sub section (2) of section 12 of the said Act, the words "and eighth of a rupee" shall omitted,

* Act III of 1906.

Substitution of new section for section 13, Act III, of 1906. **7.** For setion 13 of the said Act, the following section shall be substituted, namely :—

“13, The two anna and one-anna nickel coins specified in section 6 shall be a legal tender in payment or on account for any sum not exceeding one rupee at the rate of eight and sixteen for a rupee, respectively.

8. Nothing in this Act shall apply to silver two-anna pieces which may have been issued prior to the commencement of this Act, and the provisions of the said Act shall apply to them as if this Act had not been passed.

ACT NO. V. OF 1919 .

The Criminal Justice Aden (Amendment) Act, 1918.

. PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

*Received the assent of the Governor-General on the
6th March 1918.*

*An Act to amend the law to provide for the Administration
of criminal justice at Aden.*

WHEREAS it is expedient to amend the law to provide for the administration of criminal justice at Aden, It is hereby enacted as follows :—

Short title. 1. This Act may be called the Criminal
justice Aden (Amendment) Act, 1918.

2. After section 22 of Act II. of 1864 (*An Act to provide for
the administration of civil and criminal
justice at Aden*) (hereinafter referred to as
the said Act), the following section shall be
inserted, namely :—

Insertion of new sec-
tion 22A in Act II. of
1864.

Power to appoint Addi-
tional Sessions Judge
to be an Additional Sessions Judge.

“22A. (1) The Governor of Bombay in
Council may appoint any Assistant Resident

(2) Subject to the provisions of this Act, an Additional Sessions Judge shall exercise the same criminal jurisdiction as is conferred by this Act on the Resident, and the provisions of this Act regarding criminal procedure shall apply to him in the same way and to the same extent as they do to the Resident.

(3) An Additional Sessions Judge shall try only such cases and appeals as the Resident by general or special order may direct him to try.

(4) Nothing in section 19 of this Act shall apply to cases tried by or the proceedings of an Assistant Resident when exercising the powers of a Court of Session.

3. In section 31 of the said Act, after the words “Court of the
Resident,” wherever they occur, the words
“and the Court of the Additional Sessions
Judge” shall be inserted, and for the words “said Court,” the words
“said Courts” shall be substituted.

Amendment of section
31, Act II. of 1864

ACT NO. IX. OF 1918.

The Indian Soldiers (Litigation) Act 1918.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

*Received the assent of the Governor-General on the
21st March 1918.*

*An Act to consolidate and amend the law to provide for the
special protection in respect of civil and revenue litigation of
Indian soldiers serving under war conditions.*

Whereas it is expedient to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions, It is hereby enacted as follows :—

Short title and extent **1** (1) This Act may be called the Indian Soldiers (Litigation) Act, 1918.

(2) It extends to the whole of British India, including British Baluchistan.

Definitions **2** In this Act,—

“Court”, means a Civil or Revenue Court ;

“Indian soldier” means any persons subject to the Indian Army Act, 1911,*

“prescribed” means prescribed by rules made under this Act ; and

“proceeding” includes suit and appeal.

Circumstances in which Indian soldier shall be deemed to be serving under war conditions. **3** An Indian soldier shall be deemed to be serving under war conditions—

(a) during the continuance of the present war and for six months thereafter,

(i) when he is serving out of India,

(ii) when he is under orders to proceed on field service.

(iii) when the unit to which he belongs is mobilised, or

(iv) when in the opinion of the prescribed authority such soldier by reason of the state of war now existing is precluded from obtaining leave of absence to enable him to attend a Court as a party to any proceeding therein, and

(b) after the expiration of that period when he is serving in any place, and such service has been declared by notification of the Governor-General in Council in the *Gazette of India* to be service under war conditions.

4. If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is an Indian soldier who is serving under war conditions, he shall state the fact in his plaint, application or appeal.

Particulars to be furnished in plaints, applications or appeals to Court.

5 If the Collector has reason to believe that any Indian soldier, who ordinarily resides, or, who has property in his district and who is a party to any proceeding pending before any Court, is unable to appear thereon, the Collector may certify the facts in the prescribed manner to the Court.

Power of Collector to intervene in case of unrepresented Indian soldier

6 If the Collector has certified under section 5, or if the Court has reason to believe, that an Indian soldier who is a party to any proceeding pending before it is unable to appear thereon, and if such soldier is not represented by any person duly authorised to appear, plead or act on his behalf, such Court shall suspend the proceeding and shall give notice thereof in the prescribed manner to the prescribed authority.

Notice to be given in case of unrepresented Indian soldier.

7. If on receipt of a notice under section 6, the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that such soldier is serving under war conditions, and that a postponement of the proceeding as against such soldier is necessary in the interests of justice, such Court shall thereupon postpone the proceeding as against such soldier for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

Postponement of proceedings.

8. If, after issue of a notice under section 6, the prescribed authority either certifies that such soldier is not serving under war conditions, or that such postponement is not necessary or fails to certify in the case of a soldier resident in the district in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of such notice that such postponement is necessary the Court may, if it thinks fit continue the proceeding.

Court may proceed when no certificate received within certain period.

9. When any document is produced before any Court by or on behalf of an Indian soldier who is a party to any proceeding in such Court purporting to be signed by his Commanding Officer and to the effect that such soldier—

Postponement of proceedings against Indian soldier on leave.

- (a) is on leave of absence for a period not exceeding two months and is on the expiration on his leave to proceed on service out of India, or
- (b) is on sick leave for a period not exceeding three months and is on the expiration of his leave to rejoin his unit with a view to proceeding on service out of India

the Court shall postpone the proceeding as against such soldier in the manner provided in section 7.

10. (1) In any proceeding before a Court in which a decree or order has been passed against any Indian soldier whilst such soldier was serving under war conditions such soldier may apply to the Court which passed the same for an order to set it aside, and, if he satisfies the Court that default after the 5th of May, 1915, has been made in complying with the provisions of section 4 or 6 the Court shall, or in any other case if the interests of justice require such a course, the Court, subject to such conditions (if any) as it thinks fit to impose, may make an order setting aside the decree or order as against such soldier.

Provided that—

- (a) any such application shall be made within three months from the date on which such soldier ceased to serve under war conditions ;
 - (b) no decree or order shall be set aside on any such application unless notice thereof has been served on the opposite party ; and
 - (c) when the decree or order is of such a nature that it cannot be set aside as against such soldier only, it may be set aside as against all or any of the parties against whom it has been made.
- (2) The provisions of section 5 of the Indian Limitation Act, 1908,* shall apply to applications under this section.

11. In computing the period of limitation prescribed by the Indian Limitation Act, 1908* or any other law for the time being in force for any suit appeal or application to any Court in which the plaintiff, appellant or applicant is "or has been" an Indian soldier, the time during which such soldier has been serving under war conditions since the 4th of August, 1914, shall be excluded.

* Act IX. of 1908.

† The words within quotations have been added by Act 12 of 1924.

12 If any Court is in doubt whether for the purposes of section 10 or 11 any Indian soldier is or was at any particular time serving under war conditions it may refer the point for the decision of the prescribed authority, and the certificate of such authority shall be conclusive evidence on the point.

Power of Court or refer question as to whether service was under war conditions or not.

13. The Local Government, after consulting the High Court may, by notification in the local official Gazette make rules –

Rule-making power,

(a) prescribing the manner and form in which any notice or certificate under this Act shall be given and the authorities to whom such notices shall be given, and by whom the powers under this Act shall be exercised ;

(b) the period for which proceedings or any class of proceedings shall be suspended under this Act ; and

(c) generally providing for any matters incidental to the purposes of this Act.

14. The Governor-General in Council may, by notification in the *Gazette of India*, direct that all or any of the provisions of this Act shall apply to any other class of persons in the service of His Majesty specified in such notification in the same manner as they apply to Indian soldiers, and upon such notification such provisions shall apply accordingly.

Power to apply the provisions of this Act to other persons in the service of the Crown.

15. The Indian Soldiers (Litigation) Act, 1915,* is hereby repealed.

Repeal of Act XII of 1915.

ACT NO. X. OF 1918.

The Usurious Loans Act, 1918.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor-General on the 22nd March, 1918.**An Act to give additional powers to Courts to deal in certain cases with usurious loans of money or in kind.*

WHEREAS it is expedient to give additional powers to Courts to deal in certain cases with usurious loans of money or in kind; It is hereby enacted as follows:—

1. (1) This Act may be called the Usurious Loans Act, 1918

Short title and extent.

(2) It extends to the whole of British India including British Beluchistan.

(3) The Local Government may, by notification in the local official Gazette direct that it shall not apply to any area, class of persons or class of transactions, which it may specify in its notification.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Interest" means rate of interest and includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

(2) "Loan" means a loan whether of money or in kind, and includes any transaction which is in the opinion of the Court, in substance a loan.

(3) "Suit to which this Act applies" means any suit,—

(a) for the recovery of a loan made after the commencement of this Act; or

(b) for the enforcement of any security taken or any agreement, whether by way of settlement of account otherwise, made, after the commencement of this Act in respect of any loan made either before or after the commencement of this Act.

3. (1) Notwithstanding anything in the Usury Laws Repeal Reopening of transactions. Act, 1855,* where, in any suit to which this Act applies, whether heard *ex parte* or otherwise, the Court has reason to believe,—

* Act XXVIII. of 1855.

(a) that the interest is excessive, and

(b) that the transaction was, as between the parties thereto substantially unfair,

the Court may exercise all or any of the following powers namely, may,—

(i) reopen the transaction, take an account between the parties, and relieve the debtor of all liability in respect of any excessive interest.

(ii) notwithstanding any agreement, purporting to close previous dealings and to create a new obligation, reopen any account already taken between them and relieve the debtor of all liability in respect of any excessive interest, and if anything has been paid or allowed in account in respect of such liability, order the creditor to repay any sum which it considers to be repayable in respect thereof ;

(iii) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan, and if the creditor has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem just :

Provided that in the exercise of these powers the Court shall not—

(i) reopen any agreement purporting to close previous dealings and to create a new obligation which has been entered into by the parties or any persons from whom they claim at a date more than six years from the date of the transaction ,

(ii) do anything which affects any decree of a Court.

“Explanation.—In the case of a suit brought on a series of transactions the expression “the transaction means for the purposes of proviso (i), the first of such transactions.

(2) (a) In this section “excessive” means in excess of that which the Court deems to be reasonable having regard to the risk incurred as it appeared, or must be taken to have appeared, the creditor at the date of the loan.

(b) In considering whether interest is excessive under this section, the Court shall take into account any amounts charged or paid, whether in money or in kind, for expenses, inquiries, fines, bonuses, premia, renewals or any other charges and if compound interest is charged, the periods at which it is calculated, and the total advantage which may reasonably be taken to have been expected from the transaction.

- (c) In considering the question of risk, the Court shall take into account the presence or absence of security and the value thereof, the financial condition of the debtor and the result of any previous transactions of the debtor, by way of loan, so far as the same were known, or must be taken to have been known, to the creditor.
- (d) In considering whether a transaction was substantially unfair, the Court shall take into account all circumstances materially affecting the relations of the parties at the time of the loan or tending to show that the transaction was unfair, including the necessities on supposed necessities of the debtor at the time of the loan so far as the same were known, or must be taken to have been known, to the creditor.

Explanation.—Interest may of itself be sufficient evidence that a transaction was substantially unfair.

(3) This section shall apply to any suit whatever its form may be, if such suit is substantially one for the recovery of a loan or for the enforcement of any agreement or security in respect of loan.

(4) Nothing in this section shall affect the rights of any transferee for value who satisfies the Court that the transfer to him was *bona fide*, and that he had at the time of such transfer no notice of any fact which would have entitled the debtor as against the lender to relief under this section.

For the purposes of this sub-section, the word "notice" shall have the same meaning as is ascribed to it in section 4 of the Transfer of Property Act, 1882.*

(5) Nothing in this section shall be construed as derogating from the existing powers of jurisdiction of any Court.

4. On any application relating to the admission or amount of a proof of a loan in any insolvency proceedings, the Court may exercise the like powers as may be exercised under section 3 by a Court in a suit to which this Act applies.

* Act IV. of 1882.

ACT NO. XI. OF 1918.

The Indian Army (Amendment) Act 1918.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

*Received the assent of the Governor-General on the 22nd
March, 1918.*

An Act further to amend the Indian Army Act, 1911.

WHEREAS it is expedient further to amend the Indian Army Act, 1911 ; * It is hereby enacted as follows :—

Short title and com- **1.** (1) This Act may be called the Indian
mencement. Army (Amendment) Act, 1918.

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, direct in this behalf.

2. In the Indian Army Act, 1911† (hereinafter referred to as the said Act), for the expressions " native " and " a native " wherever they occur, the expressions " Indian " and " an Indian " shall be substituted respectively.

Amendment of section **3.** For sub section (1) of section 6 of the
6 of Act VIII of 1911. said Act, the following sub section shall be substituted, namely :—

Officers to exercise **" 6 (1) Whenever persons subject to this
powers in certain cases. Act are serving—**

(a) out of India under an officer not subject to the authority of the Governor-General in Council, or

(b) in India under an officer commanding any military organization not in this section specifically named and being, in the opinion of the Governor-General in Council, not less than a brigade

the Governor General in Council may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding armies, army corps, divisions and brigades, shall, as regards such persons, be exercised."

Amendment of section **4.** For clause (8) of section 7 of the said
7 of Act VIII of 1911. Act, the following clause shall be substituted
namely :—

" (8) ' army,' ' army corps,' ' division ' and ' brigade ' mean respectively an army, army corps, division or brigade which is

under the command of an officer subject to the authority of the Governor General in Council or, when on active service, an army, army corps, divisions or brigade under the command of an officer holding a commission in His Majesty's land Forces.'

5. In section 9 of the said Act after the words " he shall sign " the words " and shall also cause the person to sign " shall be inserted.

Amendment of section 9 of Act VIII of 1911.

6 In sections 14, 19, 21, 23 and 108 of the said Act, after the word " army " the words " army corps," and in section 102 of the said Act after the word " army " the words " or army corps " shall be inserted.

Amendments of sections 14, 19, 21, 23, 102 and 108 of Act VIII of 1911.

7. To sub-section (2) of section 18 of the said Act, the following proviso shall be added, namely —

Amendment of section 18 of Act VIII of 1911.

" Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of transportation or imprisonment, a portion of such other punishment, may be inflicted before he is sent to India."

Amendment of section 25 of Act VIII of 1911.

8. After clause (j) of section 25 of the said Act the following shall be added namely :

" or

(k) on active service commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving "

9. In clause (a) of section 27 of the said Act, after the word " causes " the words " or conspires with any other persons to cause " shall be inserted.

Amendment of section 27 of Act VIII of 1911

Insertion of new section 39A in Act VIII of 1911.

10. After section 39 of the said Act, the following section shall be inserted namely :—

" 39A. Whoever attempts to commit an offence punishable by this Act or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence may, where no express provision is made by this Act for the punishment of such attempt, be punished with the punishment provided in this Act for such offence."

Amendment of section 43 of Act VIII of 1911.

11. In section 43 of the said Act—

(1) in clause (c) for the words and brackets " (with or without solitary confinement)," the words " either rigorous or simple " shall be substituted ;

(2) in clause (e) for the words "any stated period," the words "a period not exceeding two months" shall be substituted ;

(3) after clause (g) the following clause shall be inserted, namely :—

"(gg) in the case of officers, reprimand or severe reprimand ; "

(4) in clause (h) after sub-clause (iv), the following sub-clause shall be added, namely —

"(v) on active service forfeiture of pay and allowances for a period not exceeding three months.

Amendment of section 47 of Act VIII. of 1911

12. In section 47 of the said Act, after the brackets and letter "(f)," the brackets and letters "(gg)" shall be inserted.

Insertion of new section 49A in Act VIII. of 1911

13. In Chapter VI. after section 49 of the said Act, the following section shall be added, namely :—

"49A. When any person on active service has been sentenced by court-martial to dismissal or to transportation or imprisonment whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and where such person has been sentenced to transportation or imprisonment, such service shall be reckoned as part of his term of transportation or imprisonment."

Amendment of section 50 of Act VIII. of 1911.

14. In section 50 of said Act, after clause (c), the following clause shall be inserted, namely :—

(cc) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Commander-in-chief in India."

15. In the proviso to section 74 of the said Act, after the words "district court-martial" the words "or on active service a summary general court-martial" shall be inserted.

Amendment of section 86 of Act VIII. of 1911.

16. After sub-section (5) of section 86 of the said Act, the following sub section shall be added, namely :—

"(6) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted to commit or of abetment of that offence although the attempt or abetment is not separately charged."

17. In section 91 of the said Act, for the words "and of the enrolment of such person," the following words shall be substituted, namely:—

Amendment of section 91 of Act VIII of 1911

"The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper."

Insertion of new section 91A in Act VIII of 1911.

18. After section 91 of the said Act, the following section shall be inserted, namely:—

"91A. (1) A letter,

Presumption as to certain documents.

return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of His Majesty's Forces, or respecting the circumstance of any person not having served in or belonged to any portion of His Majesty's Forces, if purporting to be signed by or on behalf of the Governor-General in Council or the Commander-in-Chief in India or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(2) An army list or gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, battalion or arm or branch of the service to which such officers or warrant officers belong.

(3) Where a record is made in any regimental book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(4) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by a provost-marshal, assistant provost-marshal or other officer, or any portion of his Majesty's Forces, a certificate purporting to be signed by such provost-marshal, assistant provost-marshal or other officer, or by the commanding officer of that portion of His Majesty's Forces and stating the fact, date and place of such surrender or apprehension shall be evidence of the matters so stated.

(6) When any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of or has been apprehended by, a police-officer not below the rank of an officer in charge

of a police-station, a certificate purporting to be signed by such police-officer and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matter so stated."

Amendment of section 98 of Act VIII. of 1911. **19.** In sub-section (1) of section 98 of the said Act.—

(1) after the words "convening officer," the words "or if the convening officer so directs, by an authority superior to the convening officer" shall be inserted ;

(2) in clause (c) for the word "said," the word "convening" shall substituted.

Insertion of new section 99A in Act VIII. of 1911. **20.** After section 99 of the said Act, the following section shall be inserted, namely :—

"99A. When any person subject to this Act is tried and sentenced by court-martial while on board ship, the finding and sentence so far as not confirmed and executed on board ship may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation."

Amendment of section 107 of Act VIII. of 1911. **21.** After the proviso to section 107 of the said Act, the following proviso shall be added, namely, —

"Provided further that on active service a sentence of rigorous imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint"

Insertion of new section 108A in Act VIII. of 1911. **22** After section 108 of the said Act, the following section shall be inserted, namely :—

"108A. In every case in which a sentence of transportation is passed under this Act, the offender, until he is transported, shall be dealt within the same manner as if sentenced to rigorous imprisonment, and shall be deemed to have been undergoing his sentence of transportation during the term of his imprisonment."

Insertion of new section 111A in Act VIII. of 1911. **23.** In Chapter IX. of the said Act after section 111, the following section shall be added, namely :—

"111A. When a sentence of fine is imposed by a court-martial under section 41 or section 42, whether the trial was held within British India or not a copy of such sentence signed and certified by the president of the Court or the officer holding the trial, as the case may be, may be sent to any Magistrate in

British India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1893,* for the levy of fines as if it was a sentence of fine imposed by such Magistrate."

Substitution of new section for section 112 of Act VIII. of 1911.

24. For section 112 of the said Act, the following section shall be substituted namely :—

"112 (1). When any person subject to this Act has been convicted by a court-martial of any offence the Governor-General in Council or the Commander in-Chief in India or, in the case of a sentence which he could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or independent brigade in which such person at the time of his conviction was serving, or the prescribed officer may,

Pardons and remissions.

(a) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded,

(b) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act :

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the Court.

(2) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted :

Provided that in the case of a person sentenced to transportation or imprisonment, such person shall undergo only the unexpired portion of his sentence.

(3) When under the provisions of section 49 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall for the purposes of this section, be treated as a punishment awarded by sentence of a court-martial."

Insertion of new sections 126A and 126B in Act VIII. of 1911.

25. After section 126 of the said Act, the following sections shall be inserted, namely :—

* Act V of 1898

"Disposal of Property."

126A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

126B. (1) After the conclusion of a trial before any court-martial, the Court or the officer confirming the finding or sentence of such court-martial or any authority superior to such officer, or, in the case of a court-martial whose finding or sentence does not require confirmation, the officer commanding the army, army corps, division or brigade within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the Court or in its custody or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within British India or not, be sent to a Magistrate in any presidency-town or district in which such property for the time being is, and such Magistrate shall thereupon cause the order to be carried into effect as if it was an order passed by such Magistrate under the provisions of the Code of Criminal Procedure, 1898.*

Explanation—In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.'

26. The title and the sections of the said Act mentioned in the Schedule are hereby repealed to the extent specified in the second column thereof.

Repeals.

THE SCHEDULE.

SECTIONS OF THE INDIAN ARMY ACT, 1911, TO BE REPEALED.

(See section 26.)

		Extent of repeal.
The title		The word "Native."
Sec.	2	The proviso to sub section (1).
"	10	"The words "of which the last pay statement, if produced, shall be evidence."
"	15	The whole.
"	18	Sub-section (3).
"	43	In sub-clause (iii) of clause (h) the words "or whose sentence involves such dismissal."
"	50	In clause (c) the word "proper" and the words "at the hospital" and in the proviso the words "or whose sentence involves dismissal."
"	93	In sub-section (2) the words "to prove the signature to such certified extracts, nor shall it be necessary."
"	126	Sub-section (3).

ACT NO. XIV. OF 1918.

The Gold Coinage Act, 1918.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

*Received the assent of the Governor-General on the
12th September, 1918.*

An Act to provide for the coinage of a gold coin at the Mints referred to in the Indian Coinage Act, 1906.

WHEREAS it is expedient to provide for the coinage of a gold coin at the Mints referred to in the Indian Coinage Act, 1906 ; *
It is hereby enacted as follows :—

Short title and dura- 1. (1) This Act may be called the Gold
tion. Coinage Act, 1918.

(2) It shall remain in force during the continuance of the present war, and for a period of six months thereafter

2. All words and expressions used in this Act and defined in the Indian Coinage Act, 1906,* shall be deemed to have the meanings respectively attributed to them by that Act.

3. The following gold coin shall be coined at the Mint for issue under the authority of the Governor-General in Council, namely : a gold mohur or fifteen rupee piece.

4 The standard weight of the said gold mohur shall be 123·27447 grains troy. Its standard fineness shall be as follows, namely : eleven-twelfths fine gold and one-twelfth of alloy :

Standard weight and
fineness
Provided that, in the making of the coin, a remedy shall be allowed not exceeding one-fifth of a grain in weight and two-thousandths in fineness.

5. The Governor-General in Council may, by notification in the *Gazette of India*, direct the coining and issuing of gold mohurs and determine the dimensions of, and designs for, such coins.

6 The gold mohur shall be a legal tender in payment or on account, at the rate of fifteen rupees for one gold mohur :

Provided that the coin—

(a) has not lost in weight so as to be of less weight than 122½ grains, and

(b) has not been defaced.

* Act III. of 1906.

7. (1) Where any gold mohur which has been coined and issued under the authority of the Governor-General in Council is tendered to any person authorised to act under section 16 of the Indian Coinage Act, 1906,* and such person has reason to believe that the coin—

(a) has been diminished in weight so as to be of less weight than $122\frac{1}{2}$ grains, or

(b) has been defaced,

he shall, by himself or another, cut or break the coin.

(2) A person cutting or breaking coin under the provisions of sub section (1) shall return the pieces to the person tendering the coin who shall bear the loss caused by such cutting or breaking :

Provided that, in the case of a defaced coin, if the person so cutting or breaking has reason to believe that the coin has not been fraudulently defaced within the meaning of section 18 of the Indian Coinage Act, 1906,* and the coin is not of less weight than $122\frac{1}{2}$ grains, he shall receive and pay for the coin at its nominal value.

8. The provisions of section 20 of the Indian Coinage Act, 1906,* shall apply in the case of gold mohurs as if that section referred to gold coin and gold bullion, and any person authorised under that section may exercise in respect of gold mohurs the powers conferred thereby.

9. The Governor-General in Council may make rules to carry out the purposes and objects of this Act.

10. No suit or other proceeding shall lie against any person in respect of anything in good faith done, or intended to be done under, or in pursuance of the provisions of, this Act.

11. The Gold Coinage Ordinance, 1918, is hereby repealed.

* Act III. of 1906.

ACT NO. XV. OF 1918.

The Enemy Trading Orders (Validation) Act, 1918.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

*Received the assent of the Governor-General on the
12th September 1918.*

An Act to terminate doubts which have arisen as to the continuance in force of notifications, orders and rules made or issued under the Enemy Trading Ordinance, 1916.

WHEREAS doubts have arisen as to the continuance in force of notification, orders and rules made or issued under the Enemy Trading Ordinance, 1916,* after the repeal of the said Ordinance by the Enemy Trading Act, 1916,† and it is expedient to terminate such doubts ; It is hereby enacted as follows :—

Short title 1 This Act may be called the
Enemy Trading Orders (Validation)
Act, 1918.

2. Every notification, order or rule which was made or issued under any provision of the Enemy Trading Ordinance, 1916,* and which was in force immediately prior to the repeal of the said Ordinance, shall be deemed to have continued in force notwithstanding such repeal, and to have been made or issued under the Enemy Trading Act, 1916.†

Orders made under the Enemy Trading Ordinance to be deemed to be, and always to have been in force.

* Act V. of 1916.

† Act X. of 1916.

ACT NO. XVI. OF 1918.

The Provisional Collection of Taxes Act, 1918.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

*Received the assent of the Governor General on the 20th
September 1918.*

*An Act to provide for the immediate effect for a limited period of
of Bills introduced into the Indian Legislative Council which
impose or vary certain taxation.*

WHEREAS it is expedient to provide for the immediate effect for a limited period of Bills introduced into the Indian Legislative Council which impose or vary certain taxation ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Provisional Collection of Taxes Act, 1918

2. When a Bill is introduced into the Indian Legislative Council by "any officer of Government acting on behalf of the Governor General in Council"* and such Bill provides for the imposition or variation of any tax in the nature of customs or excise duties, and there is inserted therein a declaration that it is expedient in the public interest that the Bill should have temporary effect under the provisions of this Act, the Bill shall, for the period limited by this section and subject to the provisions of this Act, have effect from the date of its introduction as if it were an Act of the Governor-General in Council :

Provided that the Bill shall cease to have such effect if it is rejected by the said Council, or is not passed into law within thirty days from the date of introduction :

Provided further that, if the Bill is passed into law by the said Council in a modified form, the Bill shall be deemed to have effect under this Act as so modified.

3. (1) Where under this Act a Bill to which this Act applies ceases to have effect thereunder, any money paid where Bill ceases to have statutory effect. paid in pursuance of the Bill shall be repaid or made good, and any deduction made in pursuance of the Bill shall be deemed to be an unauthorised deduction.

* The words within quotations have been substituted by Act 11 of 1923,

(2) Where the tax as imposed by the Bill is modified by the Act passed by the Indian Legislative Council, any money which has been paid in pursuance of the Bill which would not have been payable under the new conditions affecting the tax shall be repaid or made good ; and any deduction made in pursuance of the Bill shall, so far as it would not have been authorised under the new conditions affecting the tax, be deemed to be an unauthorised deduction.

4.* A declaration such as is referred to in section 2, may be made in respect of any provision of a Bill of the nature described in that section which provides for the imposition or variation of any tax in the nature of customs or excise duties, and where such declaration has been made in respect of any such provision this Act shall have effect as if references to the Bills were references to such provisions.

* Section 4 has been inserted by Act 11 of 1923.

ACT NO. XVII. OF 1918.

The Indian Non-ferrous Metal Industry Act, 1918.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

*Received the assent of the Governor-General on the 20th
September 1918.*

An Act to restrict temporarily the persons who may engage in business connected with certain non-ferrous metals and metallic ores.

WHEREAS it is expedient to restrict temporarily the persons who may engage in business connected with certain non ferrous metals and metallic ores ; It is hereby enacted as follows :—

Short title, extent, com-
mencement and dura-
tion. 1. (1) This Act may be called the
Indian Non-ferrous Metal Industry Act,
1918 ,

(2) It extends to the whole of British India, including British Baluchistan ;

(3) It shall come into force on the first day of October 1918 ; and

(4) It shall be in force during the continuance of the present war, and for a period of five years thereafter.

Definitions. 2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "Indian Company" means a company as defined in section 2 of the Indian Companies Act, 1913.*

(b) "Licence" means a licence granted under this Act, and "licensed" and "licensee" have corresponding meanings.

(c) "Prescribed" means prescribed by rules made under this Act.

(d) The expression "share warrants to bearer" includes any bearer securities which confer on the holder thereof any voting power with respect to the management of the company.

3. The meals and ores to which this Act applies are zinc, copper, tin, lead, nickel and aluminium and any other non-ferrous metals and ores to which this Act may be applied by the
Metals and ores to
which the Act applies.

* Act VII. of 1913.

Governor-General in Council by notification in the *Gazette of India*.

Provided that the expression "metal" shall not include metal which has been subjected to any manufacturing process, except such as may be prescribed; and that the expression "ore" shall include concentrates, mattes precipitates and other intermediate products.

4. (1) It shall not be lawful for any person, after the expiration of six months from the commencement of this Act or such longer period, as the Governor-General in Council may generally or in any particular case allow, to carry on the business of winning, extracting, smelting, dressing, refining or dealing by way of wholesale trade in metal or metallic ore to which this Act applies, unless licensed to do so in accordance with the provisions of this Act :

Prohibition against dealing in certain metals without a licence.

Provided that the purchase or sale of metal shall not be deemed to be dealing in such metal where such purchase or sale is incidental only to the trade carried on by the purchaser or seller :

Provided further that no licence shall be required when the winning, extracting, smelting, dressing, defining or dealing is carried on wholly outside India.

(2) In the case of a person with respect to whom any of the conditions set forth in the Schedule apply, or who is controlled by a person in respect of whom any such conditions apply, no licence shall be granted, unless the Governor-General in Council is of opinion that the grant of a licence is expedient.

(3) Save as provided in sub-section (2) any person carrying on or proposing to carry on a business to which sub-section (1) applies shall, on making application to the Local Government in the prescribed manner, and on furnishing such information and allowing inspection of such books and documents as the Local Government require, and on payment of the prescribed fee, which shall not exceed rupees fifteen, be entitled to a licence.

(4) A licence shall remain in force unless and until it is suspended or revoked.

(5) The Governor-General in Council may revoke or suspend any licence granted in accordance with sub-section (2) if he is satisfied that such a course is expedient, or any licence granted under sub-section (3) if he is satisfied, on grounds not before the Local Government at the time the licence was granted, that the licensee is or has become subject to any of the conditions set forth in the Schedule.

(6) The decision of the Governor-General in Council shall be final on the following questions, namely :—

(a) whether or not the business carried on by any person is such as to require a licence or not; or

(b) whether or not any of the conditions set forth in the Schedule apply in respect of any person; or

(c) whether or not any person is controlled by a person in respect of whom any such conditions apply.

(7) The Local Government shall publish in the prescribed manner the name of any person to whom a licence has been granted, or whose licence has been suspended or revoked under this Act.

5. (1) The Governor-General in council or the Local Government may, by order in writing, require the applicant for a licence or a licensee, or any person who, being a director, partner, manager or officer of, or the holder of or a person interested in shares or securities of, any company, or firm which has applied for the grant of a licence, or to which a licence has been granted under this Act, or by which the applicant or licensee is controlled, or being the manager of the business carried on by an individual applicant or licensee, is able to give any information as to the constitution, control or management of the company or firm, or the business carried on by the company, firm, or individual, or the beneficial interest of any person in such business or in any shares or securities of the company or firm, to furnish such information within such time as may be specified in the order.

(2) Any person authorised by the Governor-General in Council or the Local Government in this behalf may, for the purpose of verifying or obtaining information of the nature referred to in sub-section (1) inspect any books and documents belonging to or under the control of such company, firm or individual, the inspection of which may reasonably be required for the said purpose.

6. (1) An Indian company carrying on any business to which section 4 (1) applies which has issued share warrants to bearer may give notice requiring the holders of such share warrants to surrender the same for cancellation, and to have their names entered in the register of members in respect of the shares included in such warrants.

(2) Such notice shall be given by advertisement in the *Gazette of India* and by any other method by which notices to or for the information of holders of share warrants to bearer are required to be given by the regulations of the company or the conditions of issue of such warrants.

(3) Where notice has been given under this section, no person shall, as holder of a share warrant, be entitled to attend or vote at any meeting of the company, and any dividends or interest which may become payable in respect of any shares represented by

share warrants shall be retained by the company until such share warrants have been surrendered for cancellation.

7. (1) An Indian company carrying on any business to which section 4 (1) applies may give notice requiring a share holder or debenture-holder to make a declaration in writing duly signed with his usual signature as to the beneficial ownership of the shares or debentures standing in his name and as to the nationality of such beneficial owner.

(2) Such notice shall be given by any method by which notices to or for the information of holders of shares or debentures are required to be given by the regulations of the company or the conditions of issue of the debentures.

(3) Where notice has been given under this section, no person shall, as holder of a share, be entitled to attend or vote at any meeting of the company, and any dividends or interest which may become payable in respect of any shares or debentures shall be retained by such company until the share-holder or debenture-holder shall have made such declaration as aforesaid.

(4) For the purposes of this section the expressions "shares" and "debentures" include stock and debenture stock, and share-holder" and "debenture-holder" have corresponding meanings

8. No information as to any person or business obtained in accordance with the provisions of section 5 or section 7 shall be published or disclosed except for the purposes of a prosecution under this Act.

Information obtained under the Act not to be disclosed,

Penalties.

9. (1) Any person who—

- (a) carries on the business of winning, extracting smelting, dressing, refining or dealing in any metal or metallic are in contravention of this Act ; or
- (b) refuses or neglects to furnish any information, which by an order under section 5 is required to be furnished, within the time specified in such order, or knowingly furnishes any such information which is false in any material particular ; or
- (c) having the custody of any book or document which a persons is authorised to inspect under section 5 refuses or neglects to produce the book or document for inspection ;
- (d) fraudulently uses or permits to be fraudulently used any licence issued under this Act ; or
- (e) makes a declaration in compliance with a notice under section 7, which is false, and which he either knows

or believes to be false or does not believe to be true ;
or

(f) in contravention of section 8 knowingly publishes or discloses any information obtained in accordance with the provisions of this Act,

shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(2) Where the person guilty of an offence under this Act is a company, every director, manager, secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment.

10. No Court shall take cognisance of any offence punishable under this Act, unless the Local Government has by order in writing consented to the initiation of the proceedings.

Cognisance of offences
against this Act.

11. (1) The Governor-General in Council shall make rules for the purpose of carrying into effect the provisions of this Act.

Power to make rules.

(2) In particular and without prejudices to the generality of the foregoing power, such rules shall provide for—

- (a) the levying of fees in respect of licences issued under this Act ;
- (b) excluding from dealings by way of wholesale trade within the meaning of this Act, dealings in quantities below such limits as may be specified generally or in respect of any particular metal or metallic ore ; and
- (c) any matter which under this Act may be prescribed.

SCHEDULE.

Interpretation.

In this Schedule "Capital" in relation to a company means any shares or securities issued by the company which carry or would, if necessary formalities were complied with, carry any voting power with respect to the management of the company, and shall also include debentures and debenture stock and money lent to the company.

"Hostile foreigner" means a subject of a State which is now at war with His Majesty.

"Association under hostile control" means any association—

- (a) where the majority of the directors, partners, managing agents or the persons occupying any of these

- positions by whatever name called are hostile foreigners ;
- (b) where the majority of the voting power is in the hands of persons who are hostile foreigners or who exercise their voting powers directly or indirectly on behalf of persons who are hostile foreigners ; or
 - (c) where the control is by any means whatever in the hands of persons who are hostile foreigners , or
 - (d) where the executive is an association falling within any of clauses (a), (b), or (c) of this definition, or where the majority of the executive are appointed by such an association

Conditions.

1 That the person or the manager or principal officer employed by him or where the person is a company or firm, that any director or partner or manager or other principal officer thereof is or has been a hostile foreigner, or an association under hostile control.

2. That, in the case of a company, any capital of the company is or was at any time after the 1st of October 1918, held by or on behalf of a hostile foreigner, or an association under hostile control :

Provided that any stock or shares of the company vested in a custodian or other person by virtue of any order made under the Trading with the Enemy Acts, 1914 to 1916,* or the Enemy Trading Act, 1915,† or the Enemy Trading Act, 1916,‡ or any like enactment in force in any part of His Majesty's dominions shall be deemed to be so held.

3. That the person is or was at any time after the 1st October, 1918, party to any agreement, arrangement or understanding which enables or enabled a hostile foreigner or an association under hostile control to influence the policy or conduct of the business.

4 That the person is or was after the 1st of October, 1918, interested, directly and indirectly, to the extent of one fifth or more of the capital, profits or voting power in any undertaking, whether or not in British India, engaged in any business to which section 4 (1) applies in which hostile foreigners or an association or associations under hostile control are also interested, directly or indirectly, to the extent of one-fifth or more of the capital, profits or voting power.

5. That the person is by any means whatever subject, directly or indirectly, in the conduct of his business to the influence of a hostile foreigner or an association under hostile control.

6. That in the case of a company, the company has issued share warrants to bearer and has not given notice requiring the holders of such warrants to surrender the same for cancellation

* 4 & 5 Geo 5, Ch 87 ; 5 Geo 5, Ch. 12, 5 & 6 Geo 5, Ch 79 ; 5 & 6 Geo. 5, Ch. 93 ; 5 & 6 Geo. 5, Ch 105, 6 & 7 Geo. 5, Ch 32, 6 & 7 Geo. 5, Ch. 52.

† Act XIV. of 1915.

‡ Act X. of 1916.

ACT NO. XX. OF 1918

The Indian Companies (Foreign Interests) Act, 1918.

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.

*Received the assent of Governor-General on the
26th September, 1918*

An Act to take power to prohibit the alteration, except with the sanction of the Governor General in Council, of articles of association which restrict foreign interests in certain Companies, and to provide for other purposes connected therewith

WHEREAS it is expedient to take power to prohibit the alteration, except with the sanction of the Governor-General in Council, of articles of association which restrict foreign interests in certain companies, and to provide for other purposes connected therewith, It is hereby enacted as follows —

Short title.

1. This Act may be called the Indian Companies (Foreign Interests) Act, 1918

Definitions.

2 (1) In this Act—

- (a) the expression "British subject" has the same meaning as in section 27 of the British Nationality and Status of Aliens Act, 1914,* but shall include any person who holds a certificate of naturalization as a British subject granted under any Act of the Governor-General in Council for the time being in force, and any association incorporated in any part of His Majesty's dominions : Provided that the said expression shall, for the purposes of this Act, be deemed to apply to any subject of a State in India,
- (b) the expression "restrictive provision" means any provision in the articles of association of a company which, in the opinion of the Governor-General in Council, is designed to restrict or limit or has the effect of restricting or limiting the share or shares or interest which may be held, or the rights, powers or authority which may be conferred upon or exercised by or on behalf of persons other than British subjects in the company, or in respect of the control, management or direction of the affairs thereof.

* 4 & 5 Geo, 5, c. 17.

(2) All words and expressions used in this Act and defined in the Indian Companies Act, 1913,* shall be deemed to have the meanings respectively attributed to them by that Act.

3. This Act shall apply to such companies as the Governor-General in Council may, by notification in the *Gazette of India* declare to be companies with restrictive provisions, and any such notification shall specify the restrictive provisions

4. So long as a notification issued under section 3 is in force in respect of any company, notwithstanding anything to the contrary in any other Act—

- (1) no alteration of the articles of association of the company affecting either directly or indirectly any restrictive provision shall be of any effect until it has received the consent in writing of the Governor-General in Council ;
- (2) a resolution for the voluntary winding up of the company shall be of no effect unless the Governor-General in Council authorises or ratifies it by a written consent ,
- (3) any Court which has jurisdiction to wind up the company may in its discretion refuse to make a winding up order. In the exercise of its discretion the Court shall be guided by the consideration whether the winding up is *bona fide* with a view to the discontinuance of the undertaking, or is with a view to continuing the undertaking freed either wholly or in part from any restrictive provision ;
- (4) the Governor-General in Council in giving consent, or the Court in making a winding up order, as the case may be, may impose such terms or conditions for giving effect to the purposes of this Act as he or it thinks fit.

* Act VII. of 1913.

ACT NO. XXII. OF 1918.

The Bronze Coin (Legal Tender) Act, 1918

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

*Received the assent of the Governor-General on the 26th
September 1918.*

*An Act to provide that certain Bronze coins coined outside British
India shall be legal tender in British India.*

WHEREAS it is expedient to provide that certain Bronze coins
coined outside British India shall be legal tender in British India ,
It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bronze
Coin (Legal Tender) Act, 1918.

2. (1) Where bronze coins of any of the denominations speci-
fied in section 8 of the India Coinage Act,
1906,* are coined outside British India at
the request of the Governor-General in Coun-
cil, and the Governor General in Council is
satisfied that such coins are in accordance
with the requirements of section 9 and of any notification for the
time being in force under section 10 of the said Act, he may, by
notification in the *Gazette of India*, direct the issue of any such
coins, and thereafter any such coins shall be legal tender in pay-
ment or on account in the same way and to the same extent as if
they were coins referred to in section 14 of the said Act, and the
provisions of the said Act shall apply accordingly.

Power to declare cer-
tain bronze coins coin-
ed outside British
India to be legal
tender.

(2) Every coin with is declared to be legal tender by sub-sec-
tion (1) shall be deemed to be Queen's coin within the meaning of
section 230 of the India Penal Code†

* Act III. of 1906.

† Act XLV. of 1860.

- (a) declaring and defining the classes of standard cloth ;
- (b) prescribing distinctive indications which shall be woven into, impressed or otherwise displayed upon, different classes of standard cloth ;
- (c) requiring any person, who ordinarily manufactures cotton cloth, to manufacture, or provide for the manufacture of, standard cloth in such quantity, of such quality and by such date as the Controller may direct ; and
- (d) fixing the prices to be paid to the manufacturer for standard cloth or for any particular class of standard cloth, and providing for the payment thereof on delivery :

Provided that in fixing prices the Controller shall have regard to the cost of production and to the allowance of a reasonable profit, without necessarily taking into consideration the market-price, and if the Controller is satisfied that the manufacturer has incurred actual loss arising out of forward contracts entered into before the commencement of this Act, and that such loss is immediately attributable to an order under this Act, he may take such loss into account

Provided further that the Controller, may fix different prices in the case of different localities or, if special reasons exist, in respect of different manufacturers in the same locality.

5. Where a Controller is appointed in exercise of the power conferred by section 3, the Governor-
Appointment of Advisory Committees. General in Council shall appoint a Committee consisting of such number of persons having knowledge of the cotton or cotton cloth trade as he thinks fit to assist the Controller with their advice in the performance of his duties. Before a Controller issues any order declaring and defining the classes of standard cloth or fixing the prices to be paid to the manufacturer, he shall consult the Committee, and he may consult the Committee on any other matter connected with his duties :

Provided that, if the opinion of the majority of members of the Committee who are present at any meeting is adverse to the issue of any order, the Controller shall, if he does not accept the Committee's advice, refer the matter for the decision of the Governor-General in Council.

6. Where, by an order made in the exercise of powers conferred by section 4, the Controller has
Manufacture and delivery of standard cloth directed a manufacturer to manufacture, or provide for the manufacture of standard cloth and has fixed the price therefor, the manufacturer shall deliver the same at such

time and place and in such manner as the controller may specify from time to time, and the Controller shall pay or cause to be paid to the manufacturer the said price, together with the freight, if any, actually paid by the manufacturer.

7. Subject to the control of the Governor-General in Council,
 Delegation of powers. a Controller may, from time to time by order in writing, delegate all or any of his powers subject to such conditions and restrictions as may be prescribed therein.

8. If any person acts in contravention of or, without reasonable cause, fails to comply with the provisions of any order made under section 4, or counterfeits upon any cloth a distinctive indication prescribed by the Controller, such person shall be punishable with imprisonment which may extend to six months, or with fine or with both

9. (1) The Local Government shall, if standard cloth is sold in the province, by order in writing which shall be notified in the local official Gazette, fix the price at which alone standard cloth or any class of standard cloth shall be sold to the public

(2) Orders may be made fixing different prices for different localities or for different methods of sale.

(3) Every such order shall be published in such manner as the Local Government may consider to be best adapted for bringing the prices so fixed to the notice of the poorer classes

10 (1) No person shall sell or keep, offer or expose for sale to the public, standard cloth otherwise than at such price as may be fixed by the Local Government and in accordance with the terms and conditions of a license issued in this behalf.

(2) If any person contravenes the provisions of sub section (1), he shall be punishable with imprisonment which may extend to six months, or with fine or with both.

11. A license for the sale of standard cloth shall be granted by such authority, in such form and subject to such conditions as the Local Government may prescribe by rules made under this Act.

12. (1) The Governor-General in Council may make rules—

- (a) prescribing the powers and duties of the Controller,
- (b) prescribing the manner in which the Controller's orders shall be published or served, as the case may be, and
- (c) generally giving effect to the provisions of this Act

(2) The Local Government shall, if standard cloth is sold in the province, make rules prescribing the authority by which, the form in which and the conditions under which, any license or class of licenses for the sale of standard cloth shall be granted.

(3) Rules made under this Act shall be published in the *Gazette of India* or the local official gazette, as the case may be, and on such publication shall have effect as if enacted in this Act.

13. No suit, prosecution or other legal proceeding shall lie
 Protection for acts done against any person for anything which is
 under the Act in good faith done or intended to be done
 under this Act.

14. All powers given by this Act shall be in addition to and
 Powers of Act to be not in derogation of any other powers con-
 cumulative. ferred by or under any enactment, and all
 such powers may be exercised in the same manner and by the
 same authority if this Act had not been made.

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ACT NO. I. OF 1919.

The Local Authorities Pensions and Gratuities Act, 1919.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 26th February, 1919.

An Act to extend the powers of local authorities in regard to the granting of pensions and gratuities.

WHEREAS it is expedient to extend the powers of local authorities in regard to the granting of pensions and gratuities ; It is hereby enacted as follows :—

Short title and extent,

1. (1) This act may be called the Local Authorities Pensions and Gratuities Act, 1919.

(2) It extends to the whole of British India, including the Sonthal Parganas.

2. In this Act "officer" means any person who has undertaken the service of Government and who, immediately prior to undertaking such service, was paid and employed solely by a local authority and, but for undertaking such service, would in the ordinary course have continued in such employment.

3 Notwithstanding anything contained in any enactment or in any rule made thereunder regulating the powers of local authorities, and without prejudice to any powers conferred by or under any such enactment, a local authority may grant a pension or gratuity to any officer thereof who may, since the fourth day of August, 1914, have been wounded or otherwise incapacitated in the service of Government, and to the widow or child of any such officer who may have died in consequence of injuries received or illness contracted since the fourth day of August, 1914, in the course of such service.

4. (1) Such pension or gratuity may be granted in addition to any pension or gratuity payable to the officer of his wife or child, as the case may be, under any general or special orders of His Majesty in Council or of the Governor-General in Council, but shall not, save with the sanction of the "Local Government," * exceed the amount of the pension or gratuity to which the officer or his wife or child would have been entitled under any such orders if his employment by the local authority had been service for the same time and on the same pay under Government.

* The words within quotations have been substituted by Act 38 of 1920.

(2) Any pension granted under this Act may be made to take effect from such date subsequent to the fourth day of August, 1914, and subject to such conditions as the local authority may think fit.

5. Subject to the provisions of this Act, the decision of a local authority to grant a pension or gratuity there-
 Procedure. under shall be made in such manner and shall be subject to such sanction as may be prescribed by any enactment or rule regulating the grant by such local authority of pensions and gratuities :

Provided that in every case the sanction of the Local Government shall be necessary.

ACT NO. III. OF 1919.

The Motor Spirit (Duties) Amendment Act, 1919.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 12th March, 1919.

An Act to extend the operation of the Motor Spirit (Duties) Act, 1917.

WHEREAS it is expedient to extend the operation of the Motor Spirit (Duties) Act, 1917, * It is hereby enacted as follows :—

Short title. 1. This Act may be called the Motor Spirit (Duties) Amendment Act, 1919

2. In section 1 of the Motor Spirit (Duties) Act, 1917,* the word Amendment of section 1, "and" at the end of sub-section (2) and the Act II. of 1917. whole of sub-section (3) shall be omitted.

* Act II of 1917.

ACT NO. V. OF 1919.

The Termination of the Present War (Definition) Act, 1919

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor General on the 19th March 1919.

An Act to make provision to determine the date of the termination of the present war and for purpose connected therewith.

WHEREAS it is expedient to make provision to determine the date of the termination of the present war and for purposes connected therewith, It is hereby enacted as follows :—

Short title.

1. This Act may be called the Termination of the Present War (Definition) Act, 1919.

2 For the purposes of any provision in any enactment or in any notification or rule issued or made thereunder and, except when the context otherwise requires, of any provision in any contract, deed or other instrument referring, expressly or impliedly, and in whatever form of words, to the present war or the present hostilities,—

(1) the present war shall be treated as having continued to and as having ended on such date as His Majesty in Council may declare in that behalf in pursuance of the provisions of the Termination of the Present War (Definition) Act, 1918,* and

(2) the date of the termination of war between His Majesty and any particular State shall be the date similarly declared under sub-section (3) of section 1 of the said Act.

ACT NO. VI. OF 1919.

The Indian Oaths (Amendment) Act, 1919.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 19th March, 1919.

An Act further to amend the Indian Oaths Act, 1873.

WHEREAS it is expedient further to amend the Indian Oaths Act, 1873 ; * It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Oaths (Amendment) Act, 1919.

2. In section 3 of the Indian Oaths Act, 1873,* after the word "prescribed," the words "by or under any instruction under the Royal Sign Manual of His Majesty or" shall be inserted

Amendment of section 3,
Act X, of 1873

ACT NO. VIII. OF 1919.

The Negotiable Instruments (Amendment) Act, 1919.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

Received the assent of the Governor General on the 19th March, 1919.

An Act further to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881, * It is hereby enacted as follows —

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| Short title | 1. This Act may be called the Negotiable Instruments (Amendment) Act, 1919 |
| Amendment of section 9, Act XXVI of 1881. | 2. In section 9 of the Negotiable Instruments Act, 1881,* (hereinafter called the said Act), for the words "payable to, or to the order of, a payee," the words "payable to order" shall be substituted |
| Amendment of section 13, Act XXVI, of 1881 | 3 For sub-section (1) of section 13 of the said Act, the following sub-section shall be substituted, namely —
Vide vol II, p 625 |
| Amendment of section 48, Act XXVI. of 1881 | 4. In section 48 of the said Act, for the words "payable to the order of a specified person, or to a specified person or order," the words "payable to order" shall be substituted. |
| Amendment of section 121, Act XXVI, of 1881. | 5 In section 121 of the said Act, for the words "payable to, or to the order of, a specified person," the words "payable to order" shall be substituted. |

ACT NO. IX. OF 1919.

The Punjab Courts (Supplementing) Act, 1919.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

Received the assent of the Governor General on the 19th March, 1919.

An Act to supplement the Punjab Court Act, 1918,

WHEREAS it is expedient to supplement the Punjab Courts Act, 1918,* It is hereby enacted as follows. —

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| Short title and commence-
ment. | 1. (1) This Act may be called the Punjab Courts (Supplementing) Act, 1919 |
| | (2) It shall come into force on such date as may be notified by the Governor General in Council in this behalf. |
| Provisions regarding pro-
ceedings pending in the
Chief Court of the Punjab. | 2. All suits, appeals, revisions, applications, reviews, executions and other proceedings whatsoever, whether civil or criminal, pending in the Chief Court of the Punjab, shall be continued and concluded in the High Court of Judicature at Lahore as if the same had been instituted in such High Court; and the High Court of Judicature at Lahore shall exercise the same jurisdiction in relation to all such proceedings as if the same had been instituted and continued in such High Court. |

* Act XXVI. of 1881.

* Punjab Act VI of 1918.

ACT NO X, OF 1919.

The Excess Profits Duty Act, 1919.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 20th March, 1919.

An Act to impose a duty on excess profits arising out of certain business.

WHEREAS it is expedient to impose a duty on excess profits arising out of certain businesses ; It is hereby enacted as follows —

Short title and commencement. **1** (1) This Act may be called the Excess Profits Duty Act, 1919.

(2) It shall come into force on the 1st April, 1919.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

“accounting period” means the twelve months ending on the 31st March, 1919, or if the accounts of the business have been made up within the said twelve months for the purposes of the Indian Income-tax Act, 1918,* in respect of a year ending on any date other than the said 31st March, then the year ending on that other date ,

“business” includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture ,

“Chief Revenue-authority” means the Board of Revenue or the Financial Commissioner in provinces where those authorities exist, and in any other case such authority as the Local Government may declare to be the Chief Revenue-authority for the purposes of this Act ;

“prescribed” means prescribed by rules made under this Act.

All expressions used or embodied by reference in this Act which are not hereinbefore defined shall have the same meaning as is attributed to them by the Indian Income-tax Act, 1918.*

3. This Act shall apply to every business (other than the businesses specified in Schedule I.) which is, during any part of the accounting period, either carried on in British India by any person or owned or carried on in any place in India by a person ordinarily resident in British India.

4. Subject to the provisions of this Act, there shall, in respect of any business to which this Act applies, be charged, levied and paid on the amount by which the profits in the accounting period exceed the standard profits, a duty (in this Act referred to as “excess profits duty”) of an amount equal to fifty per cent, of that excess :

Provided that the amount of the said duty shall not exceed such sum as would reduce the profits in the accounting period below thirty thousand rupees.

5 The profits of a business in the accounting period shall, at the option of the person by whom the excess profits duty in respect of that business is payable be or be deemed to be,—

Ascertainment of profits in accounting period.

- (a) the taxable income as finally ascertained for the purposes of the Indian Income-tax Act, 1918,* or
- (b) when the accounting period in respect of the business ends on any date other than the 31st March, 1919, and the accounts of the business are made up for an additional period ending on the said 31st March, a sum which bears the same proportion to the taxable income of the total period (such taxable income being ascertained as nearly as may be in accordance with the provisions of the said Act) as a period of one year bears to the total period.

Explanation.—The profits in the accounting period shall, notwithstanding any composition in force for the purposes of the said Act, be actually ascertained in accordance with the provisions of that Act.

Standard profits. 6. (1) The standard profits of a business shall be as follows :—

- (a) an amount calculated at the rate of 10 per cent. or at such rate not being less than 10 per cent. as may be prescribed, on the capital or the business as existing at the end of the accounting period, in which case the capital of the business shall, for the purposes of this Act, be ascertained in accordance with the provisions of Schedule II. ; or
- (b) at the option of the person by whom excess profits duty in respect of the business is payable—
 - (i) if the profits of the business have been assessed in the years 1913 and 1914 for the purposes of the income-tax law then in force—the aggregate of half of the profits so assessed and half of the interest, if any, received in those years on securities forming part of the assets of the business, or
 - (ii) if the profits of the business have been assessed for the said purposes in the years 1913 and 1914, and in two only of the three years 1915, 1916 and 1917—the aggregate of one-fourth of the profit so assessed and one-fourth of the interest, if any, received in the same four years on securities forming part of the assets of the business ; or
 - (iii) if the profits of the business have been assessed for the said purposes in all the five years 1913, 1914, 1915, 1916 and 1917—the aggregate of one-fourth of the profits assessed in the years 1913 and 1914 and in such two of the years 1915, 1916 and 1917 as may be selected by the said person and one-fourth of the interest, if any, received in the same four years on securities forming part of the assets of the business :

* Act VII. of 1918.

Provided that if the average capital employed in the business in the years adopted for the purpose of determining the standard profits is less or more than the capital so employed at the end of the accounting period there shall be made to or from the standard profits an addition or a deduction, as the case may be, which shall bear to the standard profits the same proportion as such increase or decrease of capital bears to the average capital so employed in the years so adopted.

Explanation.—For the purpose of ascertaining the average capital employed, the capital employed in the business in any year shall be deemed to be the capital so employed at the end of that year :

Provided further that if the assessment in any of the said years was made in respect of a period of less than twelve months, that assessment shall, for the purpose of determining the standard profits, be proportionately increased

(2) If a composition for income-tax was in force in any of the years 1913, 1914, 1915, 1916 and 1917, such composition shall be deemed for the purposes of clause (b) of sub-section (1) to have been the assessment and the profits shall be determined in accordance therewith .

Provided that the person by whom excess profits duty in respect of the business is payable shall, notwithstanding any such composition, be entitled to have an assessment of the profits of the business made for the purpose of determining the standard profits, in the same way as the assessment would have been made if no such composition have been agreed upon

(3) Each of the years referred to in sub sections (1) and (2) shall be deemed to be the twelve months commencing with the 1st of April in the year mentioned

(4) Notwithstanding anything contained in this section no increase of capital made after the 31st December, 1918, shall be taken into account in any case, and no such increase before that date shall be taken into account when it appears or to the extent to which it appears that the increase was made with intent to evade or has the effect of evading the payment of the excess profits duty.

7. On the application (made in accordance with the provisions of clause (b) of sub-section (2) of section (11) of the Income-tax Act, 1918) of any person chargeable with excess profits duty Power to Collector to make allowances for special circumstances alleging that, owing to any of the following circumstances, namely :—

- (a) any change in the constitution of a partnership of which he is or was a member,
- (b) any postponement or suspension, as a consequence of the present war, of renewals or repairs,
- (c) any exceptional depreciation or obsolescence (including the cost of replacement during the accounting period) due to the present war of assets employed in the business,
- (d) the provision in connection with the requirements of the present war of plant or machinery which will not be required for the purposes of the business after the termination of the war,

- (e) the fact that the assets of the business consist to any material extent of shares in a company the business of which is itself chargeable to excess profits duty,
- (f) the liability of any part of the profits of the business to excess profits duty in the United Kingdom, or
- (g) any special circumstances connected with the nature of the business or the period for which any profits are ascertained or determined,

the provisions of this Act for the calculation of excess profits duty operate unfairly in his case, the Collector may make such allowances in calculating the amount of duty as seem to him to be necessary to meet the special circumstances, provided that any such allowance shall not reduce the amount of duty payable under the provisions of the Act by more than twenty-five per cent, without the previous sanction of the Commissioner.

8. (1) If any person who has applied under section 7 is dissatisfied with the decision of the Collector on his application, he may appeal to the Chief Revenue authority which shall, at the option of such person either itself decide such appeal or refer it to a Board of Referees to be appointed by the Local Government. The Board shall hear and consider any appeal so referred and shall communicate its decision to the Chief Revenue authority.

(2) The Chief Revenue authority and the Board shall be entitled to take into account any of the circumstances specified in section 7, and to modify the decision of the Collector with reference thereto in such way and to such extent as they may consider just and equitable.

(3) Every Board of Referees appointed under this section shall consist of three or, in cases which the Local Government considers to be of difficulty or importance, of four persons. When the Board consists of four persons, the Local Government shall appoint one of the members to be Chairman. In any case at least two members of the Board shall be persons not in the service of Government and having in the opinion of the Local Government adequate business experience.

(4) In case of a difference of opinion between the members of the Board, the opinion of the majority shall prevail. When the Board consists of four members and the members are equally divided in opinion, the Chairman shall have a second or casting vote.

(5) The decision of the Chief Revenue authority on any appeal under this section or of the Board where an appeal is referred to it shall, notwithstanding any other provision of this Act be final, and shall be deemed to be the basis of assessment in the particular case.

9. (1) The Governor-General in Council may, on the application made before the 30th June, 1919, of any person alleging that owing to special circumstances to be stated in the application the provisions of this Act for the calculation of excess profits duty would operate unfairly in the case of any class of business in which such person is engaged, refer such application for the report of a Board of special Referees to be appointed in this behalf by the Governor-General in Council,

Power of Governor-General in Council to deal with hardship in case of a class of business

(2) Every Board appointed under this section shall consist of four persons, of whom at least two shall be persons not in the service of Government. The Governor-General in Council shall appoint one member to be Chairman.

(3) On receipt of the report of the Board, the Governor-General in Council shall consider the same and pass thereon such order as he thinks fit. Any such order may vary the basis or method of assessment in respect of the class of business so reported on, and any variation so made shall be deemed to be modifications of this Act in respect of the matters to which they relate, and this Act shall apply accordingly.

10. Every liquidator of a company which is being wound up at the commencement of this Act or is wound up after the commencement of this Act and which is chargeable to excess profits duty shall before the 31st May 1919, or within two months of the commencement of the winding up, as the case may be, give notice of the fact to the Collector.

11. (1) The Collector may, for the purposes of this Act, require any person whom he believes to be engaged in any business to which this Act applies, or to have been so engaged during the accounting period or in the year ending on the 31st March, 1912, or on the 31st March in any year thereafter, to furnish him within two months after service upon him of a notice to that effect with such particulars in connection with the business as the Collector may require.

(2) At the time of furnishing such particulars such person shall—

(a) state the method which he desires to be adopted for the purpose of—

(i) ascertaining the profits of the business in the accounting period under section 5, and

(ii) determining the standard profits under section 6, and

(b) make any application which he desires to make under section 7 for an allowance in the calculation of the amount of the excess profits duty.

(3) Where any person fails, without reasonable cause or excuse, to comply with the provisions of clause (a) of sub section (2), the Collector shall proceed to ascertain the profits of the accounting period and to determine the standard profits by such method provided in this Act as he thinks fit.

12. If a person fails, without reasonable cause or excuse, to give to the Collector in due time any notice required by section 10 or to furnish any particulars referred to in section 11, he shall on conviction by a Magistrate be punishable with fine which may extend to thirty rupees for every day during which the default continues.

13. The amount of excess profits duty to be paid in respect of any business shall be assessed by the Collector, who may in any case where he thinks fit allow the duty to be paid in instalments of such amounts payable in such times as he may direct.

14. The duty may be assessed on any person for the time being owing or carrying on the business whether as agent for the owner or otherwise or, where the business has ceased during the accounting period¹ on the person who owned or so carried on the business immediately before the time at which the business ceased, and where there has been a change of ownership of the business during the accounting period, the Collector shall make the assessment in the prescribed manner

15. The provisions of sections 20, 21, 22, 23, 24, 26, 27, and of Chapters IV. and V and of sections 42, 45, 46, 47 and 49 to 52 of the Indian Income-tax Act, 1918,* shall apply, with such modifications, if any, as may be prescribed, as if the said provisions referred to excess profits duty instead of to income-tax, and every officer or authority exercising powers under the said provisions may exercise the like powers under this Act in regard to excess profits duty as he or it exercises in regard to income tax under the said Act.

Provided that references in the said provisions to the assessee shall be construed as references to a person by whom excess profits duty is payable.

16. Notwithstanding anything contained in the Indian Income-tax Act, 1918,* or in any Act repealed thereby, all information contained in any statement or return made or furnished under the provisions of any of the said Acts or obtained or collected for the purposes of any such Act may be used for the purposes of this Act.

17 (1) A person shall not for the purposes of avoiding payment of excess profits duty enter into a fictitious or artificial transaction or carry out any fictitious or artificial operation, and if he has entered into any such transaction or carried out any such operation before the commencement of this Act shall inform the Collector of the nature of the transaction or operation

Explanation — For the purposes of this section an artificial transaction or operation includes every device of whatever nature adopted for the purposes of presenting the accounts of a business in a misleading form or manner with intent to evade or having the effect of evading any obligation imposed by this Act.

(2) If any person acts in contravention of, or fails, without reasonable cause or excuse, to comply with, the provisions of sub-section (1), he shall on conviction by a Magistrate be punishable with fine which may extend to one thousand rupees.

18. (1) The Governor-General in Council may, by notification in the *Gazette of India* make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the rate to be allowed in respect of any business or class of business for the purpose of clause (a) of sub-section (1) of section 6 ;

* Act VII. of 1918.

- (b) the procedure to be followed by Boards of Referees appointed under this Act ;
 - (c) the basis and method of assessment when there has been a change of ownership during any period which can be selected for the purpose of determining standard profits, or during any subsequent period prior to the commencement of this Act ; and
 - (d) the adaptation to excess profits duty of any of the provisions of the Indian Income-tax Act, 1918,* which are made applicable to that duty by section 15.
- (3) All rules made under this section shall have effect as if enacted in this Act.

19 Where the profits of any business in the accounting period are chargeable to excess profits duty under the provisions of this Act and to super-tax under the provisions of the Super-tax Act, 1917,† then—

- (1) if the amount chargeable as excess profits duty exceeds that chargeable as super-tax, excess profits duty shall alone be charged, and
 - (2) if the amount chargeable as super-tax exceeds that chargeable as excess profits duty, super tax shall alone be charged,
- and the provisions of this Act and the Super-tax Act, 1917,† shall be construed accordingly.

20 The amount of excess profits duty paid in respect of any business shall be allowed as a deduction at the adjustment made in the year ending on the 31st March, 1920, in respect of the profits of that business for the purposes of section 19 of the Indian Income-tax Act, 1918 : *

Provided that if the amount of excess profits duty payable has not been ascertained at the time when the said adjustment is made the amount by which the income-tax would have been reduced if effect had been given to the deduction shall be deducted from the amount payable for excess profits duty.

SCHEDULE I.

EXCEPTED BUSINESSES.

(See section 3)

1. Any business the income from which is agricultural income.
2. Offices or employments.
3. Any profession the profits of which are dependent mainly on the personal qualifications of the person by whom the profession is carried on, and in which no capital expenditure is required on only capital expenditure of an amount which is small when compared with the profits which the person carrying on the profession makes .

* Act VII. of 1918.

† Act VIII. of 1917.

Provided that the business of any person taking commissions in respect of any transactions or services rendered, or any agent of any description (not being a whole-time officer or servant of the business or a commercial traveller, or an agent whose remuneration consists wholly of a fixed and definite sum not dependent on the amount of business done or any other contingency) shall not be included in this exception.

4. Any business which is liable to pay in respect of the accounting period excess profits duty in the United Kingdom.

5. Any business of which the profits in the accounting period do not exceed thirty thousand rupees.

SCHEDULE II.

ASCERTAINMENT OF CAPITAL.

(See section 6.)

1. The amount of the capital of a business shall, so far as it does not consist of money, be taken to be—

- (a) so far as it consists of assets acquired by purchase, the price at which these assets were acquired, subject to any proper deduction for depreciation or for unpaid purchase money,
- (b) so far as it consists of assets being debts due to the business, the nominal amount of those debts subject to any reduction which has been allowed or is allowable in respect of those debts under the Indian Income tax Act, 1918,* and
- (c) so far as it consists of any other assets which have not been acquired by purchase, the value of the assets at the time when they became assets of the business, subject to any proper deduction for depreciation :

Provided that nothing in this provision shall prevent accumulated profits (other than those made in the accounting period) employed in the business being treated as capital.

2. Any borrowed money or trade debts shall be deducted in computing the amount of capital for the purposes of this Act.

3. Where any asset has been paid for otherwise than in cash, the cost price of that asset shall be taken to be the value of the consideration at the time the asset was acquired, but where the business has been converted into a company and more than two thirds of the shares in the company are held by the person who was the owner of the business no value shall be attached to those shares, so far as they are represented by good will or otherwise than by material assets of the company, unless the Collector in special circumstances otherwise directs. Patents and secret processes shall be deemed to be material assets.

* Act VII. of 1918.

ACT NO. XII. OF 1919.

The Poisons Act, 1919

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 3rd September, 1919.

An Act to consolidate and amend the law regulating the importation, possession and sale of poisons throughout British India.

WHEREAS it is expedient to consolidate and amend the law regulating the importation, possession and sale of poisons throughout British India ; It is hereby enacted as follows :—

Short title and extent. **1.** (1) This Act may be called the Poisons Act, 1919.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. (1) Subject to the control of the Governor-General in Council, the Local Government may by rule regulate within the whole or any part of the territories under its administration the possession for sale and the sale, whether wholesale or retail, of any specified poison.

Power of the Local Government to regulate possession for sale and sale of any poison.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the grant of licenses to possess any specified poison for sale, wholesale or retail, and the fixing of the fee (if any) to be charged for such licenses ;
- (b) the classes of persons to whom alone such licenses may be granted ;
- (c) the classes of persons to whom alone any such poison may be sold ;
- (d) the maximum quantity of any such poison which may be sold to any one person ,
- (e) the maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same ;
- (f) the safe custody of such poisons and the levelling of the vessels, packages or coverings in which any such poison is sold or possessed for sale ; and
- (g) the inspection and examination of any such poison when possessed for sale by any such vendor.

3. The Governor General in Council may, by notification in the *Gazette of India*, prohibit except under and in accordance with the conditions of a license the importation into British India of any specified poison and may by rule regulate the grant of licenses,

Power to prohibit importation into British India of any poison except under license.

4. (1) The Local Government, "subject to the control" * of the Governor General in Council, may by rule regulate the possession of any specified poison in any local area in which the use of such poison for the purpose of committing murder or mischief by poisoning cattle appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable

(2) In making any rule under sub section (1), the Local Government may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, together with confiscation of the poison in respect of which the breach has been committed, and of the vessels, packages or coverings in which the same is found.

5. Any substance specified as a poison in a rule made or notification issued under this Act shall be deemed to be a poison for the purposes of this Act

Presumption as to specified poisons.
Penalty for unlawful importation, etc.

6 (1) Whoever—

(a) commits a breach of any rule made under section 2, or

(b) imports into British India without a license any poison the importation of which is for the time being restricted under section 3, or

(c) breaks any condition of a license for the importation of any poison granted to him under section 3,

shall be punishable,—

(i) on a first conviction, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and

(ii) on a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Any poison in respect of which an offence has been committed under this section, together with the vessels, packages or coverings in which the same is found, shall be liable to confiscation.

7. (1) The District Magistrate, the Sub-divisional Magistrate and, in a Presidency-town, the Commissioner of Police, may issue a warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed or sold in contravention of this Act or any rule thereunder, or that any poison liable to confiscation under this Act is kept or concealed.

(2) The person to whom the warrant is directed may enter and search the place in accordance therewith, and the provisions of the Code of Criminal Procedure, 1898,† relating to search-warrants shall, as far as may be, be deemed to apply to the execution of the warrant.

* The word or words within quotations was or were substituted by Act 38 of 1920.

† Act V. of 1898.

8. (1) In addition to any other power to make rules hereinbefore conferred, "and" * subject to the control of the Governor-General in Council, the Local Government, may make rules generally to carry out the purposes and objects of this Act.

(2) Every power to make rules conferred by this Act shall be subject to the condition of the rule being made after previous publication.

(3) All rules made by the Governor-General in Council or by the Local Government under this Act shall be published in the *Gazette of India* or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted in this Act.

9 (1) Nothing in this Act or any license granted or rule made thereunder shall extend to, or interfere with, anything done in good faith in the exercise of his profession as such by a medical or veterinary practitioner.

(2) Notwithstanding anything hereinbefore contained, the Local Government may in its discretion by general or special order declare that all or any of the provisions of this Act shall be deemed not to apply to any article or class of articles of commerce specified in such order, or to any poison or class of poisons used for any purpose so specified.

(3) The authority on which any power to make rules under this Act is conferred may, by general or special order, either wholly or partially—

(a) exempt from the operation of any such rules, or

(b) exclude from the scope of the exemption provided by subsection (1), any person or class of persons either generally or in respect of any poisons specified in the order.

Repeal of Act I. of 1904. 10. The Poisons Act, 1904,† is hereby repealed.

* The word or words within quotations was or were substituted by Act 35 of 1920.

† Act I. of 1904.

ACT NO. XIII. OF 1919.

The Sea Customs Amendment Act, 1919.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 17th September, 1919.

An Act further to amend the Sea Customs Act, 1878.

WHEREAS it is expedient further to amend the Sea Customs Act, 1878, * It is hereby enacted as follows :—

Short title.

1. This Act may be called the Sea Customs (Amendment) Act, 1919.

2. Section 195 of the Sea Customs Act, 1878,* shall be re-numbered Amendment of section section 195 (1), and to the same section the 195, Act VIII, of 1878 following sub-section shall be added, namely :—

“(2) In the case of goods which consist of drugs or articles intended for consumption as food, and in respect of which the taking of samples for the purposes of this sub-section may have been authorised by general or special order of the Local Government, the Customs-collector may also in like circumstances take samples thereof for submission to, and examination by, such officer of Government or of a local authority as may be specified in such order. The real value of all such samples shall be paid to the owner by the Customs-collector.”

ACT NO. XIV. OF 1919.

The Provident Funds (Amendment) Act, 1919.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 17th September, 1919

An Act further to amend the Provident Funds Act, 1897.

WHEREAS it is expedient further to amend the Provident Funds Act, 1897 ; † It is hereby enacted as follows :—

Short title.

1. This Act may be called the Provident Funds (Amendment) Act, 1919.

Amendment of section 2, Act IX. of 1897.

2. For clause (2) of section 2 of the Provident Funds Act, 1897,† the following shall be substituted, namely :—

“(2) ‘Government Provident Fund’ means a Provident Fund constituted by the authority of the Government for any class or classes of its employees or for teachers in educational institutions.”

* Act VIII. of 1878.

† Act IX. of 1897.

ACT NO. XV. OF 1919.

The Calcutta High Court (Jurisdictional Limits) Act, 1919

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

Received the assent of the Governor-General on the 17th September, 1919.

An Act to declare and prescribe the limits of the ordinary original civil Jurisdiction of the High Court of Judicature at Fort William in Bengal.

WHEREAS clause 11 of the Letters Patent for the High Court of Judicature at Fort William in Bengal, dated the 28th December, 1865, provides that the said High Court shall have and exercise ordinary original civil jurisdiction within such local limits as may from time to time be declared and prescribed by any law made by competent legislative authority for India,

AND WHEREAS it is expedient so to declare and prescribe the local limits of the ordinary original civil jurisdiction of the said High Court; It is hereby enacted as follows .—

Short title.

1. This Act may be called the Calcutta High Court (Jurisdictional Limits) Act, 1919.

2. The ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal shall be exercised within the limits set out in the Schedule :

Limits of ordinary original civil jurisdiction.

Provided that nothing in this Act shall affect any suit or other legal proceeding pending in any Court at the date of the commencement of this Act.

THE SCHEDULE.

(See section 2.)

1. The limits within which the ordinary original civil jurisdiction of the High Court shall be exercised are as follows .—

North—A line commencing on the western side of the river Hooghly at a point where the straight line joining reference pillar No. 1. (in a compound on the river side of the Ghusrri Cotton Mill, Howrah) and reference pillar No. II. (near the south-western end of Chitpur Toll Bridge) meets the western water-line of the river Hooghly, and thence along the said line to the point where it meets the eastern water-line of the river Hooghly near the south bank of the opening of Circular Canal; thence along the water-line of the south bank of Circular Canal passing under the Chitpur Toll Bridge, the Chitpur or Baghbazar Bridge to boundary pillar A on the eastern side of the southern pile of Barrackpore Bridge.

ACT NO. XIII. OF 1919.

The Sea Customs Amendment Act, 1919.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 17th September, 1919.

An Act further to amend the Sea Customs Act, 1878.

WHEREAS it is expedient further to amend the Sea Customs Act, 1878 ; * It is hereby enacted as follows :—

Short title. 1. This Act may be called the Sea Customs (Amendment) Act, 1919

2. Section 195 of the Sea Customs Act, 1878,* shall be re-numbered Amendment of section section 195 (1), and to the same section the 195, Act VIII, of 1878 following sub-section shall be added, namely :—

“(2) In the case of goods which consist of drugs or articles intended for consumption as food, and in respect of which the taking of samples for the purposes of this sub-section may have been authorised by general or special order of the Local Government, the Customs-collector may also in like circumstances take samples thereof for submission to, and examination by, such officer of Government or of a local authority as may be specified in such order. The real value of all such samples shall be paid to the owner by the Customs-collector.”

ACT NO. XIV. OF 1919.

The Provident Funds (Amendment) Act, 1919.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 17th September, 1919.

An Act further to amend the Provident Funds Act, 1897.

WHEREAS it is expedient further to amend the Provident Funds Act, 1897 ; † It is hereby enacted as follows :—

Short title. 1. This Act may be called the Provident Funds (Amendment) Act, 1919.

Amendment of section 2, 2. For clause (2) of section 2 of the Provident Funds Act, 1897,† the following shall be substituted, namely :—
Act IX, of 1897.

“(2) ‘Government Provident Fund’ means a Provident Fund constituted by the authority of the Government for any class or classes of its employees or for teachers in educational institutions.”

* Act VIII. of 1878.

† Act IX. of 1897.

ACT NO. XV. OF 1919.

The Calcutta High Court (Jurisdictional Limits) Act, 1919

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 17th September, 1919.

An Act to declare and prescribe the limits of the ordinary original civil Jurisdiction of the High Court of Judicature at Fort William in Bengal.

WHEREAS clause 11 of the Letters Patent for the High Court of Judicature at Fort William in Bengal, dated the 28th December, 1865, provides that the said High Court shall have and exercise ordinary original civil jurisdiction within such local limits as may from time to time be declared and prescribed by any law made by competent legislative authority for India,

AND WHEREAS it is expedient so to declare and prescribe the local limits of the ordinary original jurisdiction of the said High Court ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Calcutta High Court (Jurisdictional Limits) Act, 1919

2. The ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal shall be exercised within the limits set out in the Schedule ;

Limits of ordinary original civil jurisdiction.

Provided that nothing in this Act shall affect any suit or other legal proceeding pending in any Court at the date of the commencement of this Act,

THE SCHEDULE.

(See section 2.)

1. The limits within which the ordinary original civil jurisdiction of the High Court shall be exercised are as follows :—

North—A line commencing on the western side of the river Hooghly at a point where the straight line joining reference pillar No 1. (in a compound on the river side of the Ghusr Cotton Mill, Howrah) and reference pillar No. II. (near the south-western end of Chitpur Toll Bridge) meets the western water-line of the river Hooghly, and thence along the said line to the point where it meets the eastern water-line of the river Hooghly near the south bank of the opening of Circular Canal, thence along the water-line of the south bank of Circular Canal passing under the Chitpur Toll Bridge, the Chitpur or Baghbazar Bridge to boundary pillar A on the eastern side of the southern pile of Barrackpore Bridge.

East.—A line commencing from the said boundary pillar A following the eastern edge of the steps of the bridge to a point near the south-eastern corner of the immediate approach to the bridge marked by reference pillar III., which is on the boundary, thence by a straight line to boundary pillar B on the south-eastern corner of the junction of Cornwallis Street and Galif Street (now marked with a Public Works Department stone), thence along the eastern side and the eastern side of the eastern pavement of Cornwallis Street in a series of regular links joining points marked by posts 1-3 to boundary pillar C at the north corner of the junction of Shambazar Street with Cornwallis Street, thence by a straight line to boundary pillar D on the solid south corner of the said junction, thence in an approximately straight line along the solid eastern side of Upper Circular Road marked by posts 4-9; thence eastward following the corner round to boundary pillar E on the north corner of the junction of the unnamed road (which runs into Jadu Nath Mitra Lane) with Upper Circular Road, and thence by a straight line to boundary pillar F at the solid south corner of the junction of Jadu Nath Mitra Lane with Upper Circular Road, thence by posts 10-13 to boundary pillar G on the solid south corner of the junction of Ultadingi Road with Upper Circular Road, thence along the solid south side of Ultadingi Road in a series of continuous and approximately straight lines joining points marked by posts 14-16 to boundary pillar H at the solid western corner of the junction of Ultadingi Road and Gauribere Lane; thence by the solid western side of Gauribere Lane marked by posts 17-21; thence by a straight line crossing the road diagonally to boundary pillar I on the solid south eastern corner of the junction of Gauribere Lane and Ultadingi Junction Lane, thence along the solid eastern side of Ultadingi Junction Lane marked by posts 22-24 to boundary pillar J on the solid eastern corner of the junction of Ultadingi Junction Lane with Halsibagan Road, thence by a straight line to post 25 at the western corner of the said junction, thence along the solid north side of Halsibagan Road marked by post 26 to boundary pillar K on the north side of Halsibagan Road directly opposite the solid eastern side of Upper Circular Road south of it, thence by a straight line to post 27 at the solid south corner of the junction of Halsibagan Road with Upper Circular Road, thence by the solid eastern side of Upper Circular Road marked by posts 28-34 to post 35, thence turning east to boundary pillar L on the north side of Maniktola Road, thence by a straight line to post 36 at the south corner of the junction of Maniktola Road with Upper Circular Road at the north-western corner of the garden of Kali Pada Barik, thence along the eastern side of the lane on the eastern side of the raised platform road and marked by posts 37-49 to boundary pillar M at the solid north corner of the junction of the Gas Street and Upper Circular Road, thence by a straight line to boundary pillar N at the solid south corner of the said junction; thence keeping again to the eastern side of the lane on the eastern side of the raised platform road along a line marked by posts 50-61 excluding the recently made Ladies' Park to boundary pillar O near the north pillar of the north entrance to North Station, Sealdah; thence by a straight line to boundary pillar P at the south corner of that entrance, thence by the comparatively straight lines from pillar to pillar connecting boundary pillars P, Q, R, S, and T adjacent to the pillars forming the corners of the various approaches to Sealdah Station, thence along the solid eastern side of Lower Circular Road marked by posts 62-64 to pillar 65; thence

turning west to boundary pillar U at the north-western corner of the out-patients' department of the Campbell Hospital; thence by a straight line marked by posts 66-68 to boundary pillar V on the corner of the platform to the right of the north entrance to the Calcutta Corporation Central Stores, thence by post 69 turning east to post 70, thence by posts 71-76, boundary pillars W and X at the solid corners of the southern junction of Police Hospital Road with Lower Circular Road, thence by posts 77-80, to boundary pillars Y and Z on the solid corners of the junction of Beniapukur Lane with Lower Circular Road, by posts 81-86 to boundary pillars A₁ and B₁, at the solid corners of the junction of Nonapukur or Bigli Road and Lower Circular Road, posts 87, 88, to boundary pillar C₁, near the south-western corner of the Circular Road burial ground, thence by a straight line to boundary pillar D₁, on the other side of the tramway lines, thence post 89 eastward to post 90; thence to boundary pillars E₁, and F₁, at the solid-corners of the junction of Karaya Bazar Road and Lower Circular Road, posts 91, 92 to boundary pillar G₁, opposite to Theatre Road, posts 93, 94, to boundary pillar H₁, a few feet south of the point directly opposite to the junction of Auckland Place and Lower Circular Road, and following the curve of the road by posts 95 and 96 to reference pillar IV (which is on the boundary) on the eastern side of the junction of Beck Bagan Lane with Lower Circular Road.

South—A line commencing from the said reference pillar IV, in a straight line to boundary pillar I₁, on the western corner of the junction of Beck Bagan Lane with Circular Road, thence along the solid south side of Lower Circular Road to boundary pillar J₁, and K₁, at the solid corners of the junction of Ballyganj Circular Road and Lower Circular Road, thence by the solid south side of the Lower Circular Road marked by post 97, 98, boundary pillars L₁, M₁ at the solid corners of the junction of Lansdowne Road with Lower Circular Road, post 99 southward to post 100 westward to post 101, northward to post 102 and westward to post 103, boundary pillars N₁ and O₁ at the solid corners of the junction of Woodburn Road with Circular Road, posts 104, 105 boundary Pillars P₁ and Q₁ at the solid corners of the junction of Lee Road with Lower Circular Road, thence by the straight line links but broken boundary line formed by posts 106-113, to boundary pillar R₁ on the south-eastern corner of the junction of Chowringhee with Lower Circular Road; thence by an oblique straight line to boundary pillar S, on the south western corner of the said junction (near a stone marked F. W. B-26); thence by a line representing the present limits of the holdings on the south of Circular Road and marked by posts 114-116, boundary pillars T₁ and U₁ at the solid corners of the junction of Haris Chandra Mukharji Road and Lower Circular Road, posts 117-121; thence to boundary pillar V₁, near the north corner of the junction of Bhowanipore Road and Lower Circular Road, thence following the curve of the corner and the eastern side of Bhowanipore Road and the surplus lands attached thereto by a series of straight line links joining points marked by posts 122-124, boundary pillars W₁, and X₁, at the junction of Shambhunath Pandit Street and Bhowanipore Road, posts 125-128 turning eastward to boundary pillar Y₁ on the north side of Sankaripara Road, posts 129, 130 to boundary pillars Z₁ and A₂ across the entrance of Ketrapati Road into Bhowanipore Road; thence by posts 131, 132 to boundary pillar B₂ on the north eastern side of Alipore Bridge; thence along a straight line

joining the said boundary pillar B_2 with subsidiary reference pillar VII. on the south-eastern side of the said bridge to a point where that straight line meets the water-line of Tolly's Nala, thence along the water-line of Tolly's Nala to the north eastern corner of the District Magistrate's compound, near which is boundary pillar C_2 ; thence along the irregular northern boundary of the Magistrate's compound marked by posts 133-141 to boundary pillar D_2 at the south corner of the entrance to the Civil Surgeon's house from Thackeray Road, thence southward along the western boundary of the Magistrate's compound by posts 142-145 and along the southern boundary of that compound marked by posts 147, 148 to boundary pillar E_2 on the bank of Tolly's Nala; thence continuing the straight line from post 148 to boundary pillar E_2 till it meets the water-line of Tolly's Nala, thence along the water-line of Tolly's Nala to a point in a direct line with the north side of the masonry drain running outside the Jail Garden near which is boundary pillar F_2 , thence along the north side of the said drain in a straight line across Mootee Jheel to post 149 against the boundary of the compound of the Magistrate's Court; thence northward along that boundary to post 150 and westward to post 151 and northward again along the boundary of the Army Clothing Agency to post 152, thence westward on the south side of the lane to boundary pillar G_2 at the north-western corner of the Police Hospital compound; thence along the wall of the Alipore Central Jail facing Belvedere Road and marked by pillars 153-157 to the north-western corner of the junction of Belvedere Road and Jail Lane following the corner eastward to post 158 and continuing along the south side of the Jail Lane to post 159, thence by a straight line to boundary pillar H_2 at the acute corner of the junction of Reformatory Street with Jail Lane; thence to boundary pillar I_2 on the north western side of Alipore Bridge; thence to boundary pillar J_2 on the north-western side of the said Bridge; thence by the solid south-western and western side of Bhowanipore Road marked by posts 160-167, thence following the western corner of the junction of Bhowanipore Road and Lower Circular Road to boundary pillar K_2 , thence along the solid south side of Lower Circular Road following the sweep of the railings and marked by posts 168-172 to boundary pillar L_2 on Lower Circular Road and east of its junction with Belvedere Road; thence following the natural bends of the corner marked by posts 173 and 174 to boundary pillar M_2 on the eastern side of Belvedere Road; thence along the eastern side of Belvedere Road now indicated by wooden railings and marked by posts 175 to boundary pillar N_2 on the north-eastern side of Zeerut Bridge, thence along the railings of the footpath on the eastern side of the bridge to boundary pillar O_2 near its south eastern end, thence along a bent line following the shape of the bridge and marked by posts 176, 177 to post 178 on the eastern side of the south extremity of the immediate approach to the bridge, thence by a straight line to boundary pillar P_2 on the western side of the said extremity; thence turning north along the railings of the footpath on the western side of the bridge, till it meets the water-line underneath the bridge; thence along the water-line of the south or Alipore bank of Tolly's Nala trending northwards under Hastings Bridge, to a point where a straight line joining reference pillar V. (near the south-western end of Hastings Bridge), to reference pillar VI. (on the Howrah side of the river in a line with the northern wall of the Bengal Nagpur Railway Goods Yard) meets the water-line of the south bank of the bend of the Hooghly

River, near the western side of the opening of Tolly's Nala ; thence continuing the said straight line till that said straight line meets the water-line of the Howrah side of the river Hooghly.

West.—A line commencing from the point last defined along the water-line of the Howrah side of the River Hooghly to the western extremity of the northern boundary.

2. (a) When the expression "water-line" is used in this Schedule all *pucca ghats* and other objects permanently attached to the bank and in contract with the water shall be deemed to appertain to the area to which the land on that bank appertains, and the water in contract with such objects shall be deemed to appertain to the other side of the boundary. In the places in the Schedule where the boundary is thus described the boundary line shall be the moving edge of the water wherever it may be at any time. In the case of bridges, however, the supporting pile in contact with the bank only shall be deemed to be permanently attached to the bank and the boundary line across the bridge to be immediately above the water-line so described.

(b) The expression "solid side" or "solid corner" means the line or spot marked out by solid objects, such as a *pucca* wall or the face of a house, the wayside lands and pavements thus being all included in the adjacent road, street or lane.

ACT NO XVI. OF 1919.

The Indian Naturalization Amendment Act, 1919.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

Received the assent of the Governor-General on the 17th September, 1919.

An Act further to amend the Indian Naturalization Act, 1852.

WHEREAS it is expedient further to amend the Indian Naturalization Act, 1852; * It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Naturalization (Amendment) Act, 1919.

Repeal of section 6 of Act XXX. of 1852 and Insertion of new sections 11A and 11B.

2. (1) Section 6 of the Indian Naturalization Act, 1852* (hereinafter referred to as the said Act), is hereby repealed.

(2) After section 11 of the said Act, the following sections shall be inserted, namely :—

[11A. & 11B. Vide vol. I pp 126 128.]

3. In section 12 of the said Act between the word "shall" and the words "be deemed" the following shall be inserted, namely :—

"save in so far as a different intention is expressed."

Substitution of "His Majesty" for "Her Majesty" in Act XXX. of 1852.

4. For the words "Her Majesty" wherever they occur in the said Act the words "His Majesty" shall be substituted.

* Act XXX of 1852.

ACT NO. XVII. OF 1919.

The Land Acquisition (Amendment) Act, 1919.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 17th September, 1919

An Act further to amend the Land Acquisition Act, 1894.

Whereas it is expedient further to amend the Land Acquisition Act, 1894 ;* It is hereby enacted as follows :—

Short title. 1. This Act may be called the Land Acquisition (Amendment) Act, 1919.

2. To clause (e) of section 3 of Land Acquisition Act, 1894,* the following shall be added, namely.—“and includes a society registered under the Societies Registration Act, 1860,† and a registered society within the meaning of the Co-operative Societies Act, 1912.”‡

Amendment of section 3.
Act I, of 1894.

ACT NO. XVIII. OF 1919.

The Repealing and Amending Act, 1919.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 17th September, 1919.

An Act to amend certain enactments and to repeal certain other enactments.

Whereas it is expedient that certain formal amendments should be made in the enactments specified in the First Schedule ;

And whereas it is also expedient that certain enactments specified in the Second Schedule which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed ;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Repealing and Amending Act, 1919.

* Act I. of 1894.

† Act XXI. of 1860.

‡ Act II. of 1912.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

3. The enactments specified in the second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ;

Savings.
and this Act shall not affect the validity, invalidity effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued, or incurred or any remedy or proceeding in respect thereof, or any release or discharge of from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course or pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force,

THE FIRST SCHEDULE.

AMENDMENTS

(See section 2)

1	2	3	4
Year	No.	Short title.	Amendments.
1865	X.	The Indian Succession Act, 1865	<p>In section 256, after the word "administration" the words and figures "other than a grant under section 212" shall be inserted.</p> <p>After section 264, the following sections shall be inserted, namely :—</p> <p>"264 A. The High Court may, on application made to it, suspend, remove or discharge any private executor or administrator and provide for the succession of another person to the office of any such executor or administrator who may cease to hold office, and the vesting in such successor of any property belonging to the estate.</p> <p>264 B. Where probate or letters of administration in respect of any estate have been granted under this Act, the High Court may, on application made to it, give to the executor or administrator any general or special directions in regard to the estate or in regard to the administration thereof."</p> <p>After section 269, the following sections shall be inserted, namely :—</p> <p>"269A. An executor or administrator may in addition to, and not in derogation of, any other powers of</p>

THE FIRST SCHEDULE—*contd.*

AMENDMENTS

(See section 2)

1	2	3	4
Year	No	Short title.	Amendments.
1865	X.	The Indian Succession Act, 1865— <i>concl'd.</i>	<p>expenditure lawfully exercisable by him, incur expenditure—</p> <p>(a) on such acts as may be necessary for the proper care and management of any property belonging to any estate administered by him, and</p> <p>(b) with the sanction of the High Court, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property</p> <p>269B. An executor or administrator shall not be entitled to receive or retain any commission or agency charges at a higher rate than that for the time being fixed in respect of the Administrator General by or under the Administrator-General's Act, 1913."</p>
1869	IV.	The Indian Divorce Act, 1869.	In clause (1) of section 3, for the words "Chief Court of the Punjab" the words "High Court of Judicature at Lahore" shall be substituted.
1870	VII	The Court-fees Act, 1870.	In Article 13 of Schedule I, for the words "Chief Court in the Punjab" the words "High Court of Judicature at Lahore" shall be substituted
1872	I	The Indian Evidence Act, 1872.	In section 1, after the words "Courts-martial" the words "other than Courts-martial convened under the Army Act" shall be inserted.

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See Section 2.)

1	2	3	4
Year.	No.	Short title	Amendments.
1881	V.	The Probate and Administration Act, 1881.	<p>After section 87, the following sections shall be inserted, namely —</p> <p>"87A. The High Court may, on application made to it, suspend, remove or discharge any private executor or administrator, and provide for the succession of another person to the office of any such executor or administrator who may cease to hold office, and the vesting in such successor of any property belonging to the estate.</p> <p>87B. Where probate or letters of administration in respect of any estate have been granted under this Act, the High Court may, on application made to it, give to the executor or administrator any general or special directions in regard to the estate or in regard to the administration thereof."</p> <p>After section 90, the following sections shall be inserted, namely. —</p> <p>"90A. An executor or administrator may in addition to, and not in derogation of, any other powers of expenditure lawfully exercisable by him, incur expenditure—</p> <p>(a) on such acts as may be necessary for the proper care and management of any property belonging to any estate administered by him and</p>

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

1	2	3	4
Year.	No.	Short title.	Amendments.
1881	V.	The Probate and Administration Act, 1881— <i>concl'd</i>	<p>(b) with the sanction of the High Court, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.</p> <p>90B An executor or administrator shall not be entitled to receive or retain any Commission or agency charges at a higher rate than that for the time being fixed in respect of the Administrator General by or under the Administrator General's Act, 1913."</p>
1887	XVI	The Punjab Tenancy Act, 1887	In sections 84, 99, 100 and 105, for the words "Chief Court" wherever those words occur in the said sections the words "High Court" shall be substituted
"	XVII.	The Punjab Land-revenue Act, 1887	In clauses (d) and (e) of sub-section (2) of section 117, for the words "Chief Court" the words "High Court" shall be substituted.
1890	IX	The Indian Railways Act, 1890.	<p>In sub-section (3) of section 26 for the words "in the case of the Chief Court of the Punjab, the Senior Judge or in the case of the Court of the Recorder of Rangoon, the Chief Commissioner of Burma the words "in the case of the Chief Court of Lower Burma," "the Chief Judge" shall be substituted.</p> <p>For sub-section (2) of section 31, the following shall be substituted, namely.—</p> <p>"(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners to the High Court of which the Law Commissioner was a member."</p>

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2)

1	2	3	4
Year.	No.	Short title	Amendments.
1897	X.	The General Clauses Act, 1897.	<p>Section 8 shall be re-numbered section 8 (1) and to the said section the following sub section shall be added, namely .—</p> <p>“(2) Where any Act of Parliament repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any Act of the Governor-General in Council or in any Regulation or instrument to provision so repealed shall unless a different intention appears, be construed as references to the provision so re-enacted.”</p> <p>After section 13 the following section shall be inserted, namely .—</p> <p>“13A In all Acts of the Governor-General in Council and Regulations, reference to the Sovereign or to the Crown shall, unless a different intention appears be construed as references to the Sovereign for the time being.”</p> <p>In sub-section (1) of section 14, the words “on the Government” shall be omitted and after the word “then” the words “unless a different intention appears” shall be inserted.</p>
1898	V.	The Code of Criminal Procedure 1898.	<p>In clause (j) of sub-section (1) of section 4, the word “and” where it occurs between the words “Allahabad” and “Patna” shall be omitted, and for the words “the Chief Court of the Punjab” the words “and Lahore” shall be substituted</p>

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2)

1	2	3	4
Year.	No.	Short title.	Amendments
1899	II.	The Indian Stamp Act, 1899.	In clause (c) of sub-section (1) of section 57, for the words "Chief Court of the Punjab" the words "High Court of Judicature at Lahore" shall be substituted.
1900	XIII.	The Punjab Alienation of Land Act 1900	In sub-sections (2) and (3) of section 21A for the words "Chief Court" the words "High Court" shall be substituted
1908	V.	The Code of Civil Procedure, 1908	In section 122 for the words "Chief Courts of the Punjab and Lower Burma" the words "Chief Court of Lower Burma" shall be substituted
			In sub section (1) section 123 for the words "Chief Court" the words "of the Chief Court" shall be substituted.
			In clause (a) of sub-section (2) of section 123 for the words and brackets "(in the Punjab or Burma)" the words and brackets "(in Burma)" shall be substituted.
1908	IX.	The Indian Limitation Act, 1908.	In Article 158 of the First Schedule, for the entry in the third column the following shall be substituted, namely :— "When the award is filed in Court and notice of the filing has been given to the parties."*

* Certain words after this repealed by Act II. of 1924 have been omitted.

THE FIRST SCHEDULE—*conold.*

AMENDMENTS.

(See section 2)

1	2	3	4
Year.	No.	Short title.	Amendments.
1911	VIII	The Indian Army Act, 1911	For section 67, the following section shall be substituted, namely :— “67. No trial by a court martial of any person sub- Limitation of trial. ject to this Act for any offence shall be commenced after the expiration of three years from the date of such offence unless the trial of such offender could not, by reason of absence or some other manifest impediment, be commenced within that period; in which case the trial may be commenced at any time not exceeding two years after such impediment has ceased.”
1913	II	The Official Trustees Act, 1913	In section 9, for the words “such testator” the words “the testator” shall be substituted.
1915	VII	The Delhi Laws Act, 1915.	In the proviso to section 3, for the words “Chief Court of the Punjab” the words “High Court of Judicature at Lahore,” shall be substituted *

* Certain words after this repealed by Act II of 1922 have been omitted.

REPEALING AND AMENDING ACT. [1919 : Act XVIII,
THE SECOND SCHEDULE.

REPEALS.

(See section 3)

1	2	3	4
Year	No.	Short title.	Extent of repeal
<i>Acts of the Governor-General of India in Council.</i>			
1866	XXVII.	The Indian Trustees Act, 1866.	In section 2, in the definition of "High Court" the words "the Chief Court of the Punjab and."
"	XXVIII.	The Trustees' and Mortgagees' Powers Act, 1866	In section 1, in the definition of "High Court," the words "the Chief Court of the Punjab and "
1871	XXII.	The Bengal Caukidi (Amendment) Act, 1871.	The whole Act, so far as it applies to the United Provinces of Agra and Oudh.
1876	XVIII.	The Oudh Laws Act, 1876.	In Part II. of the Second Schedule, the entries relating to Acts XX. of 1856 and XXII of 1871.
1879	XVIII	The Legal Practitioners Act, 1879.	In sub-section (4) of section 41 the words "the Chief Court of the Punjab and "
1897	X.	The General Clruses Act, 1897.	Clause (23) of section 3. In sub-section (1) of section 4 the words "Her Majesty or the Queen "
1898	V.	The Code of Criminal Procedure, 1898.	In clause (d) of sub-section (1) of section 4 the words "the Chief Judge of the Chief Court of the Punjab and." In sections 266 and 365 the words "the Chief Court of the Punjab." In sub-section (1) of section 364 the words "or the Chief Court of the Punjab,"
1902	V.	The Administrators-General and Official Trustees Act, 1902.	So much as is unrepealed.

THE SECOND SCHEDULE—*conold.*

REPEALS

(See section 3)

1	2	3	4
Year.	No	Short title or subject	Extent of repeal
1908	I	The Legal Practitioners (Amendment) Act, 1908	Section 2
1912	IV.	The Indian Lunacy Act, 1912	In section 85, the word "any" where it first occurs.
<i>Acts of the Lieutenant Governor of the United Provinces of Agra and Oudh in Council</i>			
1906	IV.	Repealing the North-Western Provinces and Oudh, Kanungos and Patwaris Act, 1889	The whole Act
1910	I.	The United Provinces Water-works (Amendment) Act, 1910	The whole Act.

ACT NO. XIX OF 1919.

The Indian Tariff (Amendment) Act, 1919.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 17th September, 1919.

An Act further to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894; * It is hereby enacted as follows :—

Short title, 1. This Act may be called the Indian Tariff (Amendment) Act, 1919.

2. In clause (a) of section 10 of the Indian Tariff Act, 1894,*
Amendment of section 10, Act VIII. of 1894. (hereinafter referred to as the said Act) after the words "as the case may be," the words "or any part thereof," shall be inserted; and for the words "equivalent to the duty" the words "equivalent to the amount paid in respect of such duty" shall be substituted.

3. In Schedule III. of the said Act, items 3 and 4 shall be re-
Amendment of Schedule III., Act VIII. of 1894. numbered 4 and 5, respectively, and after item 2, the following item shall be inserted, namely :—

	HIDES & SKINS.		15 per cent.
" 3	RAW HIDES AND SKINS.	<i>Ad valorem ...</i>	Provided that, subject to such conditions as the Governor-General in Council may by notification in the <i>Gazette of India</i> prescribe, a rebate shall be granted to the exporter of two-thirds of the duty levied on hides or skins exported to any part of His Majesty's dominions or of the territories of any Indian Prince or Chief under the suzerainty of His Majesty or of any territories under the protection of His Majesty or in respect of which a mandate of the League of Nations is exercised by the Government of any part of His Majesty's dominions."

* Act VIII. of 1894

ACT NO. XX. OF 1919.

The Indian Arms (Amendment) Act, 1919.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor General on the 24th September, 1919.

An Act further to amend the Indian Arms Act, 1878

WHEREAS it is expedient further to amend the Indian Arms Act, 1878 ; * It is hereby enacted as follows :—

Short title and commencement. I (1) This Act may be called the Indian Arms (Amendment) Act, 1919.

(2) It shall come into force on the first day of January, 1920.

Substitution of a new section for section 16, Act XI of 1878. 2. For section 16 of the Indian Arms Act, 1878,* the following section shall be substituted, namely :—

Vide vol. II. p. 341.

* Act XI. of 1878.

ACT NO. XXI. OF 1919.

The Indian Coinage (Amendment) Act, 1919.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor General on the 24th September, 1919.

An Act further to amend the Indian Coinage Act, 1906

WHEREAS it is expedient further to amend the Indian Coinage Act, 1906 ; * It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Coinage (Amendment) Act, 1919

2. In section 4 of the Indian Coinage Act, 1906,* (hereinafter referred to as the said Act), the words "or eight-anna, piece" and the words "or four-anna, piece," in clauses (b) and (c), respectively, shall be omitted

Amendment of section 4,
Act III. of 1906.

3. In section 6 of the said Act for the words "a two-anna piece and a one-anna piece" the words "an eight-anna, a four-anna, a two anna and a one-anna piece" shall be substituted.

Amendment of section 6,
Act III. of 1906.

4. In section 7 of the said Act for the words "two-anna and one-anna pieces shall be ninety and sixty grains Troy, respectively," the words "eight-anna, four-anna, two-anna, and one-anna pieces shall be one hundred and twenty, one hundred and five, ninety, and sixty grains Troy, respectively" shall be substituted.

Amendment of section 7,
Act III of 1906.

5. In section 13 of the said Act for the words "The two-anna" the words "The eight-anna, four-anna, two-anna" shall be substituted, and after the words "at the rate of" the words "two, four," shall be inserted.

Amendment of section 13,
Act III of 1906.

Amendment of the heading to section 16 and of section 20, Act III. of 1906.

6. (1) In the heading to section 16 of the said Act the word "Silver" shall be omitted.

(2) In section 20 of the said Act after the word "silver" where it first occurs the words "or nickel," and after the word "or" where it occurs for the last time the words "in the case of silver coin," shall be inserted.

* Act III. of 1906.

ACT NO. XXIII, OF 1919.

The Cinematograph Amendment Act, 1919

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 24th September, 1919.

An Act to amend the Cinematograph Act, 1918.

WHEREAS it is expedient to amend the Cinematograph Act, 1918,*
It is hereby enacted as follows :—

Short title. **1** This Act may be called the Cinematograph (Amendment) Act, 1919.

2 For sub-section (3) of section 1 of the Cinematograph Act, 1918,* (hereinafter referred to as the said Act),
Amendment of section 1, the following sub-section shall be substituted,
Act II. of 1918. namely :—

“(3) The Governor-General in Council may, by notification in the *Gazette of India*, direct that the whole or any of its provisions shall come into force in any Province or part of a Province on such date as may be specified in the notification”

3 In sub-section (2) of section 5 of the said Act, for the words “the prescribed authority” the words and figure “an authority constituted under section 7” shall be substituted.
Amendment of section 5,
Act II. of 1918

Substitution of a new section for section 7, Act II. of 1918. **4** For section 7 of the said Act the following section shall be substituted, namely :—

Vide (Act II. of 1918 S. 7)

Amendment of section 8, **5** In section 8 of the said Act—
Act II. of 1918.

(1) at the end of clause (b) of sub-section (2) the word “and” shall be omitted, and after the same clause the following clause shall be inserted, namely :—

“(bb) the appointment of officers subordinate to authorities constituted under section 7 and the regulation of the powers and duties of such officers, and”, and

(2) for sub-section (3) the following sub section shall be substituted, namely :—

“(3) The Governor-General in Council may delegate to a Local Government subject to such conditions and restrictions as he may impose, the power to make rules regarding all or any of the matters mentioned in sub-section (2) so far as regards the territories subject to that Government.”

* Act II. of 1918.

ACT NO. XXVII. OF 1919.

The Indemnity Act, 1919.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 25th September, 1919.

An Act to indemnify officers of Government and other persons in respect of certain acts done under martial law, and to provide for other matters in connection therewith.

WHEREAS owing to the recent disorders in certain districts in the Punjab and in other parts of India, martial law has been enforced.

AND WHEREAS it is expedient to indemnify officers of Government and other persons in respect of acts, matters and things ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order, provided that such acts, matters or things were ordered or done in good faith and in a reasonable belief that they were necessary for the said purposes;

AND WHEREAS certain persons have been convicted by Courts and other authorities constituted or appointed under martial law, and it is expedient to confirm and provide for the continuance of certain sentences passed by such courts or authorities;

It is hereby enacted as follows :—

Short title. I. This Act may be called the Indemnity Act, 1919

2. No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any Court of law against any officer of Government, whether civil or military, or against any other person acting under the orders of any such officer for or on account of or in respect of any act, matter or thing ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order in any part of British India where martial law was enforced, on or after the 30th of March, 1919, and before the 26th of August, 1919, by any such officer or person: Provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes;

and if any such proceeding has been instituted before the passing of this Act it is hereby discharged.

3. For the purposes of section 2 a certificate of a Secretary to Government that any act was done under the orders of an officer of Government shall be conclusive proof thereof, and all action taken for the aforesaid purposes

shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved.

4. Every person confined under and by virtue of any sentence passed Confirmation and continuance of martial law appointed under martial law and acting in a sentences. by a Court or other authority constituted or judicial capacity shall be deemed to have been lawfully confined and shall continue liable to confinement until the expiration of such sentence, or until released by the Governor-General in Council or otherwise discharged by lawful authority.

5. Where under martial law the property of any person has been Compensation in respect of loss attributable to certain acts. taken or used by any officer of Government, whether civil or military, the Governor General in Council shall pay to such person reasonable compensation for any loss immediately attributable to such taking or using, to be assessed upon failure of agreement by a person holding judicial office not inferior to that of a District Judge to be appointed by the Government in this behalf.

Savings.

6. Nothing in this Act shall—

- (a) apply to any sentence passed or punishment inflicted by or under the orders of any Commission appointed under the Martial Law Ordinance, 1919,*
- (b) be deemed to bar a full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council or to affect any question or matter to be decided therein, or
- (c) prevent the institution of proceedings by or on behalf of the Government against any person in respect of any matter whatsoever.

* Act I of 1919.

ACT NO. II. OF 1920.

The Indian Army (Amendment) Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

Received the assent of the Governor-General on the 11th February, 1920.

An Act further to amend the Indian Army Act, 1911,

Whereas it is expedient further to amend the Indian Army Act, 1911,* It is hereby enacted as follows :—

Short title 1 This Act may be called the Indian Army (Amendment) Act, 1920.

Amendment of section 116, Act VIII, of 1911, 2 In section 116 of the Indian Army Act, 1911,* after the words "becoming insane" the following shall be added, namely :—

"or, who, being on active service, is officially reported missing :

Provided that, in the case of a person so reported missing, no action shall be taken under sub-sections (2) to (5), inclusive of the said section, until one year has elapsed from the date of such report ;"

ACT NO. III. OF 1920.

The United Provinces Town Improvement (Appeals) Act, 1920

PASSED BY THE GOVERNOR GENERAL IN COUNCIL

Received the assent of the Governor-General on the 11th February, 1920.

An Act to modify certain provisions of the United Provinces Town Improvement Act, 1919.

Whereas it is expedient to modify the provisions of the United Provinces Town Improvement Act, 1919,† so as to provide in certain cases for an appeal to the High Court from the awards of the Tribunal constituted under that Act ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the United Provinces Town Improvement (Appeals) Act, 1920.

Definitions. 2. In this Act—

(1) "High Court" means in Agra the High Court of Judicature at Allahabad, and in Oudh, the Court of the Judicial Commissioner of Oudh ; and

* Act VIII, of 1911.

† U P Act VIII of 1919

(2) "Tribunal" has the same meaning as in the United Provinces Town Improvement Act 1919.*

3 (1) Notwithstanding anything contained in the United Provinces Town Improvement Act, 1919,* and subject to the provisions of sub-section (2), an appeal shall lie to the High Court in any of the following cases, namely :—

(a) where the decision is that of the President of the Tribunal sitting alone in pursuance of clause (b) of section 64 of the said Act ;

(b) where the decision is that of the Tribunal, and—

(i) the President of the Tribunal grants a certificate that the case is a fit one for appeal, or

(ii) the High Court grants special leave to appeal :

Provided that the High Court shall not grant such special leave unless the President has refused to grant a certificate under sub clause (i) and the amount in dispute is not less than five thousand rupees

(2) An appeal under clause (b) of sub-section (1) shall only lie on one or more of the following grounds, namely :—

(i) the decision being contrary to law or to some usage having the force of law ,

(ii) the decision having failed to determine some material issue of law or usage having the force of law ,

(iii) a substantial error or defect in the procedure provided by the said Act which may possibly have produced error or defect in the decision of the case upon the merits.

4 Subject to the provisions of section 3, the provisions of the Code of Civil Procedure, 1908,† with respect to appeals from original decrees shall, so far as may be, apply to appeals under this Act

5 Every order passed by the High Court on appeal under this Act shall be enforced, on application, by a Court of Small Causes within the local limits of whose jurisdiction the award or order appealed against was made, as if it were a decree of that Court.

6. An appeal under section 3 shall be deemed to be an appeal under the Code of Civil Procedure, 1908,† within the meaning of Article 156 of the First Schedule to the Indian Limitation Act, 1908.‡

* U. P. Act VIII. of 1919. † Act V. of 1908. ‡ Act IX. of 1908

ACT NO. IV, OF 1920.

The Indian Census Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor General on the 25th February, 1920.

An Act to provide for certain matters in connection with the taking of the Census.

Whereas it has been determined to take a census of British India during the year 1921, and it is expedient to provide for certain matters in connection with the taking of such census, It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Indian Census Act, 1920.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Sonthal Parganas and the Pargana of Spiti.

2. (1) The Local Government may appoint any person to take, or aid in, or supervise the taking of, the census within any specified local area.

Appointment of census officers.

(2) Persons so appointed shall be called census-officers.

(3) The Local Government may delegate to such authority, as it thinks fit, the power of appointing census-officers which is conferred by this section.

3. (1) A declaration in writing, signed by any officer authorized by the Local Government in this behalf that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

Proof of appointment of census-officers and their status as public servants.

(2) All census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.*

4. (1) (a) Every officer in command of any body of men belonging to His Majesty's naval, military or air forces or to His Majesty's Indian Marine Service or of any vessel of war.

Discharge of duties of census-officers in certain cases.

(b) every person (except a pilot or harbour-master) having charge or control of a vessel,

(c) every person in charge of a lunatic, asylum, hospital, workhouse, prison, reformatory or lock-up or of any public, charitable, religious or educational institution,

(d) every keeper secretary or manager of any sarai, hotel, boarding-house, lodging-house, emigration depot or club, and

(e) every occupant of immoveable property who has at the time of the taking of the census not less than twenty persons living on or in such property, and every manager or officer of a railway or other commercial or industrial establishment who has at such time not less than ten persons employed under him.

shall, if so required by the District Magistrate or by such officer as the Local Government may appoint in this behalf, perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or are inmates of his house or present on or in such immoveable property or are employed under him as such Magistrate or officer may, by written order, direct.

(2) All the provisions of this Act relating to census officers shall apply, so far as they can be made applicable, to all persons while performing such duties under this section, and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code.*

5 (1) The District Magistrate, or such officer as the Local Government may appoint in this behalf for any local area, may, by written order, which shall have effect throughout the limits of his district or of such local area, as the case may be, call upon.—

Power of District Magistrate to call upon certain persons to give assistance

(a) all owners and occupiers of land, tenure-holders, farmers, assignees of land revenue and lessees of fisheries under the Burma Fisheries Act, 1905,† or the Upper Burma Land and Revenue Regulation, 1889 ‡ or their agents,

(b) all village officers and servants in estates as defined in the Madras Proprietary Estates' Village Service Act, 1894, § and

(c) all members of panchayats appointed under the Village Chaukidari Act, 1870,¶ or the Sylhet and Cachar Rural Police Regulation, 1883¶ or members of union boards established under the Bengal Village Self-Government Act, 1919,** all ghatwals Unittabsildars and members of a panchayat appointed under the Chota Nagpur Rural Police Act, 1914,†† all members of Village Authorities constituted under the Assam Local Self Government Act, 1915,‡‡ and all village-headmen in the Kumaon Division of the United Provinces.

* Act XLV. of 1860. † Bur. Act III of 1905 ‡ Act III of 1889.

§ Mad. Act II of 1894. ¶ Ben Act VI of 1870. ¶¶ Act I of 1883.

** Ben. Act V of 1919. †† B. and O. Act I of 1914. ‡‡ Assam Act I of 1915.

to give such assistance as he needs towards the taking of a census of the persons who are at the time of the taking of the census on the lands of such owners, occupiers, holders, farmers and assignees, or within the limits of such fisheries or in the villages or other areas for which such village officers and servants, panchayats, union boards, Village Authorities ghatwals, Unit-tahsildars or village headmen are appointed, as the case may be.

(2) Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees and lessees, or their agents, and such village officers and servants, the members of such panchayats, union boards and Village Authorities, and such ghatwals, United tahsildars and village-headmen shall be bound to obey it.

6. Every census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

7. Every person of whom any question is asked under the last foregoing section shall be legally bound to answer such question to the best of his knowledge or belief :

Provided that no person shall be bound to state the same of any female member of his household, and no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

8. Every person occupying any house, enclosure, vessel or other place shall allow census-officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on or affix to the place such letters, marks or numbers as may be necessary for the purposes of the census.

9. (1) Subject to such orders as the Local Government may issue in this behalf, any census-officer may leave, or cause to be left,

(a) at any dwelling-house within the local area for which he is appointed, or

(b) with any manager or officer of any commercial or industrial establishment who has at the time of the taking of the census not less than ten persons employed under him,

a schedule for the purpose of its being filled up by the occupier of such house or of any specified part thereof, or by such manager or officer with such particulars as the Local Government may direct regarding the inmates of such house or part, or the persons employed under such manager or officer at the time of the taking of the census, as the case may be.

(2) When any such schedule has been so left, the occupier of the house or part to which it relates or the manager or officer with whom it is left shall fill it up, or cause it to be filled up, to the best of his knowledge or belief, so far as regards the inmates of such house or part, or the persons employed under him at the time aforesaid, as the case may be, and shall sign his name thereto, and when so required, shall deliver the schedule so filled up and signed to the census officer or to such person as the census-officer may direct.

Penalties,

10. In any of the following cases, namely—

- (a) if a census-officer or person lawfully required to give assistance towards the taking of a census refuses or neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Act or with any rule duly made thereunder,
- (b) if a census officer intentionally puts any offensive or improper question or knowingly makes any false return, or, without the previous sanction of the Governor General in Council or the Local Government, discloses any information which he has received by means of or for the purposes of a census return,
- (c) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a census-officer which he is legally bound by section 7 so to answer,
- (d) if any person occupying any house, enclosure, vessel or other place refuses to allow a census officer such reasonable access thereto as he is required by section 8 to allow,
- (e) if any person removes, obliterates, alters or injures before the 31st day of March, 1921, any letters, marks or numbers which have been painted or affixed for the purposes of the census,
- (f) if any occupier of a dwelling-house or part thereof or any person with whom a schedule is left under section 9 knowingly and without sufficient cause fails to comply with the provisions of section 9 or makes any false return under that section,

he shall be punishable with fine which may extend to fifty rupees

11 (1) The Local Government may, by notification in the official Gazette, declare before what classes of Magistrates prosecutions under this Act may be instituted.

(2) Unless and until a notification is published under sub-section (1) all prosecutions under this Act shall, in the towns of Calcutta, Madras and Bombay, be instituted before a Presidency Magistrate, and elsewhere, before the District Magistrate.

(3) No prosecution under this Act shall be instituted except with the previous sanction of the Local Government or of some officer authorised by the Local Government in this behalf.

12. No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty as such officer or any schedule delivered under section 9, and, notwithstanding anything to the contrary in the Indian Evidence Act, 1872, * no entry in any such book, register, record or schedule shall be admissible as evidence in any civil proceeding or any proceeding under Chapter XII. or Chapter XXXVI. of the Code of Criminal Procedure. 1898,†

13. Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority may, at the time appointed for the taking of the census of British India during the year 1921, cause the census of the municipality to be taken wholly or in part by any method authorised by this Act.

14. Notwithstanding anything in any enactment or rule, in regard to municipal, local, union or village funds, the Local Government may direct that the whole or any part of any expenses incurred for anything done in accordance with this Act may be charged to any municipal, local, union or village fund constituted for, and on behalf of, the area within which such expenses were incurred.

Power to make rules.

15 (1) The Governor-General in Council may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Governor-General in Council may make rules providing—

- (a) for the appointment of census-officers and of persons to perform any of the duties of census-officers or to give assistance towards the taking of a census, and for the general instructions to be issued to such officers and persons ,
- (b) for the enumeration of persons employed on railways and their families and of other classes of the population for whom it may be necessary or expedient to make special provision : and
- (c) for the enumeration of persons travelling on the night when a census is taken.

* The Governor-General in Council may, by general or special order direct that all or any of the powers conferred upon him by this section may also be exercised by any Local Government with respect to the territories administered by it.

ACT NO. V. OF 1920.

The Provincial Insolvency Act, 1920.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 25th February, 1920.

An Act to consolidate and amend the Law relating to Insolvency in British India, as administered by Courts having jurisdiction outside the Presidency town and the Town of Rangoon.

Whereas it is expedient to consolidate and amend the law relating to insolvency in British India, as administered by Courts having jurisdiction outside the Presidency-towns and the Town of Rangoon; It is hereby enacted as follows :

Short title and extent. 1. (1) This Act may be called the Provincial Insolvency Act, 1920.

(2) It extends to the whole of British India except the Scheduled Districts.

Definitions. 2. (1) In this Act, unless there is anything repugnant in the subject or context,—

- (a) "creditor" includes a decree holder, "debt" includes a judgment debt and "debtor" includes a judgment debtor;
- (b) "District Court" means the principal Civil Court of original jurisdiction in any area outside the local limits for the time being of the Presidency-towns and of the Town of Rangoon;
- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "property" includes any property over which or the profits of which any person has a disposing power which he may exercise for his own benefit;
- (e) "secured creditor" means a person holding a mortgage charge or lien on the property of the debtor or any part thereof as a security for a debt due to him from the debtor: and
- (f) "transfer of property" includes a transfer of any interest in property and the creation of any charge upon property.

(2) Words and expressions used in this Act and defined in the Code of Civil Procedure, 1908,* and not hereinbefore defined shall have the same meanings as those respectively attributed to them by the said Code.

PART I

CONSTITUTION AND POWERS OF COURT.

Insolvency jurisdiction. 3. (1) The District Courts shall be the Courts having jurisdiction under this Act :

Provided that the Local Government may by notification in the local official Gazette, invest any Court subordinate to a District Court with jurisdiction in any class of cases, and any Court so invested shall within the local limits of its jurisdiction have concurrent jurisdiction with the District Court under this Act.

(2) For the purposes of this Act, a Court of Small Causes shall be deemed to be subordinate to the District Court.

4. (1) Subject to the provisions of this Act the Court shall have full Power of Court to decide all questions whether of title or all questions arising in in priority, or of any nature whatsoever, and whether solvency. involving matters of law or of fact, which may arise in any case of insolvency coming within the cognizance of the Court or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

(2) Subject to the provisions of this Act and notwithstanding anything contained in any other law for the time being in force, every such decision shall be final and binding for all purposes as between, on the one hand, the debtor and the debtor's estate and, on the other hand, all claimants against him or it and all persons claiming through or under them or any of them.

(3) Where the Court does not deem it expedient or necessary to decide any question of the nature referred to in sub-section (1), but has reason to believe that the debtor has a saleable interest in any property, the Court may without further inquiry sell such interest in such manner and subject to such conditions as it may think fit

5. (1) Subject to the provisions of this Act, the Court, in regard to General powers of Courts, proceedings under this Act, shall have the same powers and shall follow the same procedure as it has and follows in the exercise of original civil jurisdiction

(2) Subject as aforesaid, High Courts and District Courts in regard to proceedings under this Act in Courts subordinate, to them, shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to civil suits

PART II.

PROCEEDINGS FROM ACT OF INSOLVENCY TO DISCHARGE.

Acts of insolvency.

Acts of insolvency.

6. A debtor commits an act of of insolvency in each of the following cases, namely :

- (a) if, in British India or elsewhere, he makes a transfer of all or substantially all his property to a third person for the benefit of his creditors generally,
- (b) if, in British India or elsewhere, he makes a transfer of his property or of any part thereof with intent to defeat or delay his creditors;
- (c) if, in British India or elsewhere, he makes any transfer of his property, or of any part thereof, which would, under this or any other enactment for the time being in force, be void as a fraudulent preference if he were adjudged an insolvent;
- (d) if, with intent to defeat or delay his creditors,—
 - (i) he departs or remains out of British India
 - (ii) he departs from his dwelling house or usual place of business or otherwise absents himself.
 - (iii) he secludes himself so as to deprive his creditors of the means of communicating with him,
- (e) if any of his property has been sold in execution of the decree of any Court for the payment of money;
- (f) if he petitions to be adjudged an insolvent under the provisions of this Act,
- (g) if he gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts, or,
- (h) if he is imprisoned in execution of the decree of any Court for the payment of money

Explanation.—For the purposes of this section the act of an agent may be the act of the principal.

Petition.

7. Subject to the conditions specified in this Act, if a debtor commits an act of insolvency, an insolvency petition may be presented either by a creditor or by the debtor, and the Court may on such petition make an order (hereinafter called an order of adjudication) adjudging him an insolvent.

Explanation.—The presentation of a petition by the debtor shall be deemed an act of insolvency within the meaning of this section, and on such petition the Court may make an order of adjudication.

8. No insolvency petition shall be presented against any corporation or against any association or company registered under any enactment for the time being in force.

Exemption of corporation etc., from insolvency proceedings

Conditions of which creditor may petition.

9 (1) A creditor shall not be entitled to present an insolvency petition against a debtor unless—

- (a) the debt owing by the debtor to the creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to such creditors amounts to five hundred rupees, and
- (b) the debt is a liquidated sum payable either immediately or at some certain future time, and

(c) the act of insolvency on which the petition is grounded has occurred within three months before the presentation of the petition.

(2) If the petitioning creditor is a secured creditor, he shall in his petition either state that he is willing to relinquish his security for the benefit of the creditors in the event of the debtor being adjudged insolvent, or give an estimate of the value of the security. In the latter case, he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated in the same way as if he were an unsecured creditor.

Conditions on which debtor may petition.

10. (1) A debtor shall not be entitled to present an insolvency petition, unless he is unable to pay his debts and—

- (a) his debts amount to five hundred rupees ; or
- (b) he is under arrest or imprisonment in execution of the decree of any Court for the payment of money ; or
- (c) an order of attachment in execution of such a decree has been made, and is subsisting, against his property.

(2) A debtor in respect of whom an order of adjudication made under this Act has been annulled, owing to his failure to apply, or to prosecute an application for his discharge shall not be entitled to present an insolvency petition without the leave of the Court by which the order of adjudication was annulled. Such Court shall not grant leave unless it is satisfied either that the debtor was prevented by any reasonable cause from presenting or prosecuting his application, as the case may be, or that the petition is founded on facts substantially different from those contained in the petition on which the order or adjudication was made.

11. Every insolvency petition shall be presented to a Court having jurisdiction under this Act in any local area in which the debtor ordinarily resides or carries on business, or personally works for gain, or if he has been arrested or imprisoned, where he is in custody :

Provided that no objection as to the place of presentment shall be allowed by any Court in the exercise of appellate or revisional jurisdiction unless such objection was taken in the Court by which the petition was heard at the earliest possible opportunity, and unless there has been a consequent failure of justice.

12 Every insolvency petition shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908,* for signing and verifying plaints.

Contents of petition.

13. (1) Every insolvency petition presented by a debtor shall contain the following particulars, namely—

- (a) a statement that the debtor is unable to pay his debts ;
- (b) the place where he ordinarily resides or carries on business or personally works for gain, or, if he has been arrested or imprisoned, the place where he is in custody ;

* Act V, of 1908.

- (c) the Court (if any) by whose order he has been arrested or imprisoned, or by which an order has been made for the attachment of his property, together with particulars of the decree in respect of which any such order has been made ;
 - (d) the amount and particulars of all pecuniary claims against him, together with names and residences of his creditors so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by, him ,
 - (e) the amount and particulars of all his property, together with—
 - (i) a specification of the value of all such property not consisting of money .
 - (ii) the place or places at which any such property is to be found , and
 - (iii) a declaration of his willingness to place at the disposal of the Court all such property save in so far as it includes such particulars (not being his books of account) as are exempted by the Code of Civil Procedure, 1908, or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree ;
 - (f) a statement whether the debtor has on any previous occasion filed a petition to be adjudged an insolvent, and (where such a petition has been filed)—
 - (i) if such petition has been dismissed, the reasons for such dismissal, or
 - (ii) if the debtor has been adjudged an insolvent, concise particulars of the insolvency, including a statement whether any previous adjudication has been annulled and, if so, the grounds therefor.
- (2) Every insolvency petition presented by a creditor or creditors shall set forth the particulars regarding the debtor specified in clause (b) of sub-section (1) and shall, also specify—

- (a) the act of insolvency committed by such debtor, together with the date of its commission , and
- (b) the amount and particulars of his or their pecuniary claim or claims against such debtor.

14. No petition, whether presented by a debtor or by a creditor, shall be withdrawn without the leave of the Court.

15. Where two or more insolvency petitions are presented against the same debtor, or where separate petitions are presented against joint debtors, the Court may consolidate the proceedings or any of them, on such terms as the Court thinks fit.

16. Where the petitioner does not proceed with due diligence on his petition the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of a petitioning creditor.

17 If a debtor by or against whom an insolvency petition has been presented dies, the proceedings in the matter shall, unless the Court otherwise orders, be continued so far as may be necessary for the realisation and distribution of the property of the debtor

18. The procedure laid down in the Code of Civil Procedure, 1908,* with respect to the admission of petitions, shall, so far as it is applicable, be followed in the case of insolvency petitions

19 (1) Where an insolvency petition is admitted, the Court shall make an order fixing a date for hearing the petition.

(2) Notice of the order under sub-section (1) shall be given to creditors in such manner as may be prescribed.

(3) Where the debtor is not the petitioner, notice of the order under sub-section (1) shall be served on him in the manner provided for the service of summons.

20. The Court when making an order admitting the petition may, and where the debtor is the petitioner ordinarily shall, appoint an interim receiver of the property of the debtor or of any part thereof and may direct him to take immediate possession thereof or of any part thereof, and the interim receiver shall thereupon have such of the powers conferrable on a receiver appointed under the Code of Civil Procedure, 1908,* as the Court may direct. If an interim receiver is not so appointed, the Court may make such appointment at any subsequent time before adjudication, and the provisions of this sub-section shall apply accordingly

21 At the time of making an order admitting the petition or at any subsequent time before adjudication, the Court may, either of its own motion or on the application of any creditor, make one or more of the following orders, namely : —

(1) order the debtor to give reasonable security for his appearance until final orders are made upon the petition, and direct that, in default of giving such security, he shall be detained in the civil prison ;

(2) order the attachment by actual seizure of the whole or any part of the property in the possession or under the control of the debtor, other than such particulars (not being his books of account) as are exempted by the Code of Civil Procedure, 1908,† or by any other enactment for the time being in force, from liability to attachment and sale in execution of a decree ;

(3) order a warrant to issue with or without bail for the arrest of the debtor, and direct either that he be detained in the civil prison until the disposal of the petition, or that he be released on such terms as to security as may be reasonable and necessary :

* Act V of 1908.

† Act V. of 1908.

Provided that an order under clause (2) or clause (3) shall not be made unless the Court is satisfied that the debtor, with intent to defeat or delay his creditors or to avoid any process of the Court :—

- (i) has absconded or has departed from the local limits of the jurisdiction of the Court, or is about to abscond or to depart from such limits, or is remaining outside them, or
- (ii) has failed to disclose or has concealed, destroyed, transferred or removed from such limits, or is about to conceal, destroy, transfer or remove from such limits, any documents likely to be of use to his creditors in the course of the hearing or any part of his property other than such particulars as aforesaid.

22 The debtor shall on the making of an order admitting the petition produce all books of account, and shall at any time thereafter give such inventories of his property, and such lists of his creditors and debtors and of the debts due to and from them, respectively, submit to such examination in respect of his property or his creditors, attend at such times before the Court or receiver, execute such instruments, and generally do all such acts and things in relation to his property as may be required by the Court or receiver, or as may be prescribed.

23. (1) At the time of Making an order admitting the petition or at any subsequent time before adjudication, the Court may, if the debtor is under arrest or imprisonment in execution of the decree of any Court for the payment of money, order his release on such terms as to security as may be reasonable and necessary.

(2) The Court may at any time order any person who has been released under this section to be re-arrested and recommitted to the custody from which he was released.

(3) At the time of making any order under this section the Court shall record in writing its reasons therefor.

24. (1) On the day fixed for the hearing of the petition, or on any subsequent day to which the hearing may be adjourned, the Court shall require proof of the following matters, namely :—

- (a) that the creditor or the debtor, as the case may be, is entitled to present the petition :

Provided that, where the debtor is the petitioner, he shall, for the purpose of proving his inability to pay his debts, be required to furnish only such proof as to satisfy the Court that there are *prima facie* grounds for believing the same and the Court, if and when so satisfied, shall not be bound to hear any further evidence thereon,

- (b) that the debtor, if he does not appear on a petition presented by a creditor, has been served with notice of the order admitting the petition, and

- (c) that the debtor has committed the act of insolvency alleged against him.

(2) The Court shall also examine the debtor, if he is present, as to his conduct, dealings and property in the presence of such creditors as appear

at the hearing, and the creditors shall have the right to question the debtor thereon.

(3) The Court shall, if sufficient cause is shown, grant time to the debtor or to any creditor to produce any evidence which appears to it to be necessary for the proper disposal of the petition.

(4) A memorandum of the substance of the examination of the debtor and of any other oral evidence given shall be made by the Judge, and shall form part of the record of the case.

25 (1) In the case of a petition presented by a creditor, where the Court is not satisfied with the proof of his right to present the petition or of the service on the debtor or notice of the order admitting the petition, or of the alleged act of insolvency, or is satisfied by the debtor that he is able to pay his debts, or that for any other sufficient cause no order ought to be made the Court shall dismiss the petition.

(2) In the case of a petition presented by a debtor, the Court shall dismiss the petition if it is not satisfied of his right to present the petition.

26. (1) Where a petition presented by a creditor is dismissed under sub section (1) of section 25, and the Court is satisfied that petition was frivolous or vexatious, the Court may, on the application of the debtor, award against such creditor such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the debtor for the expense or injury occasioned to him by the petition and the proceedings thereon, and such amount may be realised as if it were a fine.

(2) An award under this section shall bar any suit for compensation in respect of such petition and the proceedings thereon.

Order of Adjudication.

27. (1) If the Court does not dismiss the petition, it shall make an order of adjudication, and shall specify in such order the period within which the debtor shall apply for his discharge.

(2) The Court may, if sufficient cause is shown, extend the period within which the debtor shall apply for his discharge, and in that case shall publish notice of the order in such manner as it thinks fit.

28. (1) On the making of an order of adjudication, the insolvent shall aid to the utmost of his power in the realisation of his property and the distribution of the proceeds among his creditors.

(2) On the making of an order of adjudication the whole of the property of the insolvent shall vest in the Court or in a receiver as hereinafter provided, and shall become divisible among the creditors, and thereafter except as provided by this Act, no creditor to whom the insolvent is indebted in respect of any debt proveable under this Act shall during the pendency of the insolvency proceedings have any remedy against the property of the insolvent in respect of the debt, or commence any suit or other legal proceeding, except with the leave of the Court and on such terms as the Court may impose.

(3) For the purposes of sub section (2), all goods being, at the date of the presentation of the petition on which the order is made, in the possession, order or disposition of the insolvent in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof, shall be deemed to be the property of the insolvent.

(4) All property which is acquired by or devolves on the insolvent after the date of an order of adjudication and before his discharge shall forthwith vest in the Court or receiver, and the provisions of sub-section (2) apply in respect thereof.

(5) The property of the insolvent for the purpose of this section shall not include any property (not being books of account) which is exempted by the Code of Civil Procedure 1908,* or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree.

(6) Nothing in this section shall affect the power of any secured creditor to realize or otherwise deal with his security, in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

(7) An order of adjudication shall relate back to, and take effect from the date of the presentation of the petition on which it is made.

29. Any Court in which a suit or other proceeding is pending against a debtor shall, on proof that an order of adjudication has been made against him under this Act either stay the proceeding or allow it to continue on such terms as such Court may impose.

30. Notice of an order of adjudication stating the name, address and description of the insolvent, the date of the adjudication, the period within which the debtor shall apply for his discharge, and the Court by which the adjudication is made, shall be published in the local official Gazette and in such other manner as may be prescribed.

Proceedings consequent on order of adjudication.

31. (1) Any insolvent in respect of whom an order of adjudication has been made may apply to the Court for protection, and the Court may on such application make an order for the protection of the insolvent from arrest or detention.

(2) A protection order may apply either to all the debts of the debtor, or to any of them as the Court may think proper, and may commence and take effect at and for such time as the Court may direct, and may be revoked or renewed as the Court may think fit.

(3) A protection order shall protect the insolvent from being arrested or detained in prison for any debt to which such order applies, and any insolvent arrested or detained contrary to the terms of such an order shall be entitled to his release :

Provided that no such order shall operate to prejudice the rights of any creditor in the event of such order being revoked or the adjudication annulled.

* Act V, of 1908.

(4) Any creditor shall be entitled to appear and oppose the grant of a protection order.

32. At any time after an order of adjudication has been made, the Court may, if it has reason to believe on the application of any creditor or the receiver, that the debtor has absconded or departed from the local limits of its jurisdiction with intent to avoid any obligation which has been or might be, imposed on him by or under this Act, order a warrant to issue for his arrest, and on his appearing or being brought before it, may, if satisfied that he was absconding or had departed with such intent, order his release on such terms as to security as may be reasonable or necessary, or if such security is not furnished, direct that he shall be detained in the civil prison for a period which may extend to three months.

33. (1) When an order of adjudication has been made under this Act, all persons alleging themselves to be creditors of the insolvent in respect of debts provable under this Act shall tender proof of their respective debts by producing evidence of the amount and particulars thereof, and the Court shall, by order, determine the persons who have proved themselves to be creditors of the insolvent in respect of such debts, and the amount of such debts, respectively, and shall frame a schedule of such persons and debts :

Provided that if, in the opinion of the Court, the value of any debt is incapable of being fairly estimated, the Court may make an order to that effect, and thereupon the debt shall not be included in the schedule.

(2) A copy of every such schedule shall be posted in the Court-house.

(3) Any creditor of the insolvent may, at any time before the discharge of the insolvent, tender proof of his debt and apply to the Court for an order directing his name to be entered in the schedule as a creditor in respect of any debt provable under this Act, and not entered in the schedule, and the Court, after causing notice to be served on the insolvent and the other creditors who have proved their debts, and hearing their objections (if any) shall comply with or reject the application.

34. (1) Debts which have excluded from the schedule on the ground that their value is incapable of being fairly estimated and demands in the nature of unliquidated damages arising otherwise than by reason of a contract or a breach of trust shall not be proveable under this Act.

(2) Save as provided by sub-section (1), all debts and liabilities, present or future, certain or contingent, to which the debtor is subject when he is adjudged an insolvent, or to which he may become subject before his discharge by reason of any obligation incurred before the date of such adjudication, shall be deemed to be debts provable under this Act.

Annulment of adjudication.

35 Where, in the opinion of the Court, a debtor ought not to have been adjudged insolvent, or where it is proved to the satisfaction of the Court that the debts of the insolvent have been paid in full, the Court shall on the application of the debtor, or of any other person interested, by order in writing, annul the adjudication.

36 If, in any case in which an order of adjudication has been made, it shall be proved to the Court by which such order was made that insolvency proceedings are pending in another Court against the same debtor, and that the property of the debtor can be more conveniently distributed by such other Court, the Court may annul the adjudication or stay all proceedings thereon.

37 (1) Where an adjudication is annulled, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the Court or receiver, shall be valid, but, subject as aforesaid, the property, of the debtor who was adjudged insolvent shall vest in such person as the Court may appoint or, in default of any such appointment, shall revert to the debtor to the extent of his right or interest therein on such conditions (if any) as the Court may, order in writing, declare.

(2) Notice of every order annulling an adjudication shall be published in the local official Gazette and in such other manner as may be prescribed.

Compositions and schemes of arrangement.

38 (1) Where a debtor, after the making of an order of adjudication submits a proposal for a composition in satisfaction of his debts, or proposal for a scheme of arrangement of his affairs, the Court shall fix a date for the consideration of the proposal, and shall issue a notice to all creditors in such manner as may be prescribed.

(2) If, on the consideration of the proposal, a majority in number and three-fourths in value of all the creditors whose debts are proved and who are present in person or by pleader, resolve to accept the proposal, the same shall be deemed to be duly accepted by the creditors.

(3) The debtor may at the meeting amend the terms of his proposal if the amendment is, in the opinion of the Court, calculated to benefit the general body of creditors.

(4) Where the Court is of opinion, after hearing the report of the receiver, if a receiver has been appointed, and after considering any objections which may be made by or on behalf of any creditor, that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors, the Court shall refuse to approve the proposal.

(5) If any facts are proved on proof of which the Court would be required either to refuse, suspend or attach conditions to the debtor's discharge, the Court shall refuse to approve the proposal unless it pro-

vides reasonable security for payment of not less than six annas in the rupee on all the unsecured debts provable against the debtor's estate.

(6) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of an insolvent.

(7) In any other case the Court may either approve or refuse to approve the proposal.

39. If the Court approves the proposal, the terms shall be embodied in an order of the Court, and the Court shall frame a schedule in accordance with the provisions of section 33, the order of adjudication shall be annulled, and the provisions of section 37 shall apply, and the composition or scheme shall be binding on all the creditors entered in the said schedule so far as relates to any debts entered therein

40. If default is made in the payment of any instalment due in pursuance of the composition or scheme or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the Court was obtained by fraud, the Court may, if it think fit, re-adjudge the debtor insolvent and annul the composition or scheme but without prejudice to the validity of any transfer or payment duly made or of anything duly done under or in pursuance of the composition or scheme. When a debtor is re-adjudged insolvent under this sub-section, all debts provable in other respects which have been contracted before the date of such re-adjudication shall be provable in the insolvency.

Discharge.

41. (1) A debtor may, at any time after the order of adjudication, and shall, within the period specified by the Court, apply to the Court for an order of discharge, and the Court shall fix a day, notice, whereof shall be given in such manner as may be prescribed, for hearing such application, and any objections which may be made thereto.

(2) Subject to the provisions of this section, the Court may, after considering the objections of any creditor and, where a receiver has been appointed the report of the receiver —

- (a) grant or refuse an absolute order of discharge ; or
- (b) suspend the operation of the order for a specified time ; or
- (c) grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the insolvent, or with respect to his after-acquired property

42. (1) The Court shall refuse to grant an absolute order of discharge under section 41 on proof of any of the following facts, namely—

- (a) that the insolvent's assets are not of a value equal to eight annas in the rupee on the amount of his unsecured liabilities, unless he satisfies the Court that the fact that the assets are not of

a value equal to eight annas in the rupee on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible,

- (b) that the insolvent has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his insolvency;
- (c) that the insolvent has continued to trade after knowing himself to be insolvent;
- (d) that the insolvent has contracted any debt provable under this Act without having at the time of contracting it any reasonable or probable ground of expectation (the burden of proving which shall lie on him) that he would be able to pay it,
- (e) that the insolvent has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities ;
- (f) that the insolvent has brought on, or contributed to, his insolvency by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs;
- (g) that the insolvent has, within three months preceding the date of the presentation of the petition, when unable to pay his debts as they became due, given an undue preference to any of his creditors;
- (h) that the insolvent has on any previous occasion been adjudged an insolvent or made a composition or arrangement with his creditors;
- (i) that the insolvent has concealed or removed his property or any part thereof, or has been guilty of any other fraud or fraudulent breach of trust.

(2) For the purposes of this section, the report of the receiver shall be deemed to be evidence, and the Court may presume the correctness of any statement contained therein.

(3) The powers of suspending, and of attaching conditions to, an insolvent's discharge may be exercised concurrently.

43. (1) If the debtor does not appear on the day fixed for hearing his application for discharge or on such subsequent day as the Court may direct, or if the debtor does not apply for an order of discharge within the period specified by the Court, the order of adjudication shall be annulled, and the provisions of section 37 shall apply accordingly.

Adjudication to be annulled on failure to apply for discharge.

(2) Where a debtor has been released from custody under the provisions of this Act and the order of adjudication is annulled under subsection (1), the Court may, if it thinks fit, recommit the debtor to his former custody, and the officer in charge of the prison to whose custody such debtor is so recommitted shall receive such debtor into his custody according to such recommitment, and thereupon all processes which were

in force against the person of such debtor at the time of such release as aforesaid shall be deemed to be still in force against him as if no order of adjudication had been made.

Effect of order of discharge 44. (2) An order of discharge shall not release the insolvent from—

- (a) any debt due to the Crown,
- (b) any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party;
- (c) any debt or liability in respect of which he has obtained forbearance by any fraud to which he was a party; or
- (d) any liability under an order for maintenance made under section 488 of the Code of Criminal Procedure, 1898.*

(2) Save as otherwise provided by sub-section (1), an order of discharge shall release the insolvent from all debts provable under this Act.

(3) An order of discharge shall not release any person who, at the date of the presentation of the petition, was a partner or co-trustee with the insolvent, or was jointly bound or had made any joint contract with him or any person who was surety for him.

PART III.

ADMINISTRATION OF PROPERTY.

Method of proof of debts.

45. A creditor may prove for a debt not payable when the debtor is adjudged an insolvent as if it were payable presently, and may receive dividends equally with the other creditors, deducting therefrom only a rebate of interest at the rate of six per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted,

46. Where there have been mutual dealings between an insolvent and a creditor proving or claiming to prove a debt under this Act, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more shall be claimed or paid on either side respectively,

47. (1) Where a secured creditor realises his security, he may prove for the balance due to him, after deducting the net amount realised.

(2) Where secured creditor relinquishes his security for the general benefit of the creditors, he may prove for his whole debt.

* Act V. of 1898.

(3) Where a secured creditor does not either realise or relinquish his security, he shall, before being entitled to have his debt entered in the schedule, state in his proof the particulars of his security, and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

(4) Where a security is so valued, the Court may at any time before realisation redeem it on payment to the creditor of the assessed value.

(5) Where a creditor, after having valued his security, subsequently realises it, the net amount realised shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

(6) Where a secured creditor does not comply with the provisions of this section, he shall be excluded from all share in any dividend.

48. (1) On any debt or sum certain whereon interest is not reserved or agreed for, and which is overdue when the debtor is adjudged an insolvent, and which is probable under this Act, the creditor may prove for interest at a rate not exceeding six per centum per annum,—

(a) if the debt or sum is payable by virtue of a written instrument at a certain time, for the time when such debt or sum was payable to the date of such adjudication or ;

(b) if the debt or sum is payable otherwise from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment to the date of such adjudication.

(2) Where a debt which has been proved under this Act includes interest or any pecuniary consideration in lieu of interest the interest or consideration shall, for the purposes of dividend be calculated at a rate not exceeding six per centum per annum, without prejudice to the right of a creditor to receive out of the debtor's estate any higher rate of interest to which he may be entitled after all the debts proved have been paid in full.

49. (1) A debt may be proved under this Act by delivering or sending by post in a registered letter, to the Court an affidavit verifying the debt.

(2) The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers (if any) by which the same can be substantiated. The Court may at any time call for the production of the vouchers.

50. (1) Where the receiver thinks that a debt has been improperly entered in the schedule the Court may, on the application of the receiver and after notice to the creditor, and such inquiry (if any) as the Court thinks necessary, expunge such entry or reduce the amount of the debt.

(2) The Court may also, after like inquiry, expunge an entry or reduce the amount of a debt upon the application of a creditor where no receiver has been appointed, or where the receiver declines to interfere in the matter or, in the case of a composition or scheme, upon the application of the debtor.

Effect of insolvency on antecedent transactions.

51 (1) Where execution of a decree has issued against the property of a debtor, no person shall be entitled to the benefit of the execution against the receiver except in respect of assets realised in the course of the execution by sale or otherwise before the date of the admission of the petition.

Restriction of rights of creditor under execution.

(2) Nothing in this section shall affect the rights of a secured creditor in respect of the property against which the decree is executed.

(3) A person who in good faith purchases the property of a debtor under a sale in execution shall in all cases acquire a good title to it against the receiver.

52. Where execution of a decree has issued against any property of a debtor which is saleable in execution and before the sale thereof notice is given to the Court executing the decree that an insolvency petition by or against the debtor has been admitted, the Court shall, on application, direct the property, if in the possession of the Court, to be delivered to the receiver but the costs of the suit in which the decree was made and of the execution shall be a first charge on the property so delivered, and the receiver may sell the property on an adequate part thereof for the purpose of satisfying the charge.

Duties of Court executing decree as to property taken in execution.

53. Any transfer of property not being a transfer made before and in consideration of marriage or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration shall, if the transferor is adjudged insolvent within two years after the date of the transfer, be voidable as against the receiver and may be annulled by the Court.

Avoidance of voluntary transfer.

54. (1) Every transfer of property, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, with a view of giving that creditor a preference over the other creditors, shall, if such person is adjudged insolvent on a petition presented within three months after the date thereof, be deemed fraudulent and void as against the receiver and shall be annulled by the Court.

Avoidance of preference in certain cases.

(2) This section shall not affect the rights of any person who in good faith and for valuable consideration has acquired a title through or under a creditor of the insolvent.

55. Subject to the foregoing provisions of this Act with respect to the effect of insolvency on an execution, and with respect to the avoidance of certain transfers and preferences, nothing in this Act shall invalidate in the case of an insolvency—

Protection of bona fide transaction.

- (a) any payment by the insolvent to any of his creditors ;
- (b) any payment or delivery to the insolvent ;
- (c) any transfer by the insolvent for valuable consideration ; or

(d) any contract or dealing by or with the insolvent for valuable consideration :

Provided that any such transaction takes place before the date of the order of adjudication, and that the person with whom such transaction takes place has not at the time notice of the presentation of any insolvency petition by or against the debtor.

Realisation of Property.

56. (1) The Court may, at the time of the order of adjudication or Appointment of receiver, at any time afterwards, appoint a receiver for the property of the insolvent and such property shall thereupon vest in such receiver.

(2) Subject to such conditions as may be prescribed, the Court may—

- (a) require the receiver to give such security as it thinks fit duly to account for what he shall receive in respect of the property ; and
- (b) by general or special order, fix the amount to be paid as remuneration for the services of the receiver out of the assets of the insolvent.

(3) Where the Court appoints a receiver, it may remove the person in whose possession or custody any such property as aforesaid is, from the possession or custody thereof :

Provided that nothing in this section shall be deemed to authorise the Court to remove from the possession or custody of property any person whom the insolvent has not a present right so to remove .

(4) Where a receiver appointed under this section—

- (a) fails to submit his accounts at such period and in such form as the Court directs, or
- (b) fails to pay the balance due from him thereon as the Court directs, or
- (c) occasions loss to the property by his wilful default or gross negligence,

the Court may direct his property to be attached and sold, and may apply the proceeds to make good any balance found to be due from him or any loss so occasioned by him

(5) The provisions of this section shall apply, so far as may be, to interim receivers appointed under section 20.

57. (1) The Local Government may appoint such persons as it thinks fit (to be called "Official Receivers"), to be receivers under this Act within such local limits as it may prescribe.

Power to appoint Official Receivers.

(2) Where any Official Receiver has been so appointed for the local limits of the jurisdiction of any Court having jurisdiction under this Act, he shall be the receiver for the purpose of every order appointing a receiver or an interim receiver issued by any such Court, unless the Court for special reasons otherwise directs -

(3) Any sum payable under clause (b) of sub-section 2 of section 56 in respect of the services of an Official Receiver shall be credited to such fund as the Local Government may direct.

(4) Every Official Receiver shall receive such remuneration out of the said fund or otherwise as the Local Government may fix in this behalf, and no remuneration whatever beyond that so fixed shall be received by the Official receiver as such.

58 Where no receiver is appointed, the Court shall have all the rights of, and may exercise all the powers conferred on, a receiver under this act.

Powers of Court if no receiver appointed.

59 Subject to the provisions of this Act, the receiver shall, with all convenient speed, realise the property of the debtor and distribute dividends among the creditors entitled thereto, and for that purpose may—

Duties and powers of receiver.

(a) sell all or any part of the property of the insolvent ;
(b) give receipts for any money received by him ,
and may, by leave of the Court, do all or any of the following things, namely:—

(c) carry on the business of the insolvent so far as may be necessary for the beneficial winding up of the same ;

(d) institute, defend or continue any suit or other legal proceeding relating to the property of the insolvent ;

(e) employ a pleader or other agent to take any proceedings or do any business which may be sanctioned by the Court ;

(f) accept as the consideration for the sale of any property of the insolvent a sum of money payable at a future time subject to such stipulations as to security and otherwise as the Court thinks fit ;

(g) mortgage or pledge any part of the property of the insolvent for the purpose of raising money for the payment of his debts ;

(h) refer any dispute to arbitration, and compromise all debts, claims and liabilities, on such terms as may be agreed upon ; and

(i) divide in its existing form amongst the creditors, according to its estimated value, any property which, from its peculiar nature or other special circumstances, cannot readily or advantageously be sold.

60. (1) In any local area in which a declaration has been made under section 68 of the Code of Civil Procedure, 1908,*
Special provisions in regard to immoveable property. and is in force, no sale of immoveable property paying revenue to the Government or held or let for agricultural purposes shall be made by the receiver ; but, after the other property of the insolvent has been realised, the Court shall ascertain—

(a) the amount required to satisfy the debts proved under this Act after deducting the monies already received ;

(b) the immoveable property of the insolvent remaining unsold ; and

(c) the incumbrances (if any) existing thereon ;

* Act V. of 1908.

and shall forward a statement to the Collector containing the particulars aforesaid; and thereupon the Collector shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by paragraphs 2 to 10 of the Third Schedule to the said Code as he thinks fit, and subject to the provisions of those paragraphs so far as they are applicable, and shall hold at the disposal of the Court all sums that may come to his hands by the exercise of such powers.

(2) Nothing in this Act shall be deemed to affect any provisions of any enactment for the time being in force prohibiting or restricting the execution of decrees or order against immovable property; and any such provisions shall be deemed to apply to the enforcement of an order of adjudication made under this Act as if it were such a decree or order.

Distribution of Property

Priority of debts

all other debts—

61. (1) In the distribution of the property of the insolvent, there shall be paid in priority to

- (a) all debts due to the Crown or to any local authority, and
- (b) all salary or wages, not exceeding twenty rupees in all, of any clerk, servant or labourer in respect of services rendered to the insolvent during four months before the date of the presentation of the petition.

(2) The debts specified in sub-section (1) shall rank equally between themselves, and shall be paid in full, unless the property of the insolvent is insufficient to meet them, in which case they shall abate in equal proportions between themselves

(3) Subject to the retention of such sums as may be necessary for the expenses of administration or otherwise, the debts specified in sub-section (1) shall be discharged forthwith in so far as the property of the insolvent is sufficient to meet them.

(4) In the case of partners, the partnership property shall be applicable in the first instance in payment of the partnership debts, and the separate property of each partner shall be applicable in the first instance in payment of his separate debts. Where there is a surplus of the separate property of the partners, it shall be dealt with as part of the partnership property; and where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the rights and interests of each partner in the partnership property.

(5) Subject to the provisions of this Act, all debts entered in the schedule shall be paid rateably according to the amounts of such debts respectively and without any preference.

(6) Where there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date on which the debtor is adjudged an insolvent at the rate of six per centum per annum on all debts entered in the schedule.

Calculation of dividends.

to meet—

62. (1) In the calculation of dividends, the receiver shall retain in his hands sufficient assets

- (a) debts provable under this Act and appearing, from the insolvent's statements or otherwise, to be due to persons resident in places so distant that in the ordinary course of communication they have not had sufficient time to tender their proofs ;
 - (b) debts provable under this Act, the subject of claims, not yet determined ;
 - (c) disputed proofs or claims , and
 - (d) the expenses necessary for the administration of the estate or otherwise.
- (2) Subject to the provisions of sub-section (1), all money in hand shall be distributed as dividends.

63. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid, out of any money for the time being in the hands of the receiver any dividend or dividends which he may have failed to receive before that money is applied to the payment of any future dividend or dividends ; but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

64. When the receiver has realised all the property of the insolvent or so much thereof as can, in the opinion of the Court, be realised without needlessly protracting the receivership, he shall declare a final dividend ; but before so doing, he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified but not proved, that if they do not prove their claims within the time limited by the notice, he will proceed to make a final dividend without regard to their claims. After the expiration of the time so limited, or if the Court, on application by any such claimant, grants him further time for establishing his claim, then on the expiration of such further time, the property of the insolvent shall be divided among the creditors entered in the schedule without regard to the claims of any other persons.

65. No suit for a dividend shall lie against the receiver ; but where the receiver refuses to pay any dividend, the Court may, on the application of any creditor who is entered in the schedule, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld and the costs of the application.

66. (1) The Court may appoint the insolvent himself to superintend the management by and allowance to insolvent. the management of the property of the insolvent or of any part thereof, or to carry on the trade (if any) of the insolvent for the benefit of the creditors, and in any other respect to aid in administering the property in such manner and on such terms as the Court may direct.

(a) The Court may, from time to time make such allowance as it may think just to the insolvent out of his property for the support of himself and his family, or in consideration of his services if he is engaged in

winding up his estate ; but any such allowance may, at any time, be varied or determined by the Court

67. The insolvent shall be entitled to any surplus remaining after payment in full of his creditors, with interest as provided by this Act, and of the expenses of the proceedings taken thereunder.

Appeal to Court against receiver.

68 If the insolvent or any of the creditors or any other person is aggrieved by any act or decision of the receiver, he may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just :

Provided that no application under this section shall be entertained after the expiration of twenty one days from the date of the act or decision complained of.

PART IV.

PENALTIES.

69 If a debtor, whether before or after the making of an order of adjudication,—

- (a) wilfully fails to perform the duties imposed on him by section 22 or to deliver up possession of any part of his property which is divisible among his creditors under this Act, and which is for the time being in his possession or under his control to the Court or to any person authorised by the Court to take possession of it, or
- (b) fraudulently with intent to conceal the state of his affairs or to defeat the objects of this Act—
 - (i) has destroyed or otherwise wilfully prevented or purposely withheld the production of any document relating to such of his affairs as are subject to investigation under this Act, or
 - (ii) has kept or caused to be kept false books, or
 - (iii) has made false entries in or withheld entries from or wilfully altered or falsified any document relating to such of his affairs as are subject to investigation under this Act, or
- (c) fraudulently with intent to diminish the sum to be divided among his creditors or to give an undue preference to any of his creditors,—
 - (i) has discharged or concealed any debt due to or from him, or
 - (ii) has made away with, charged, mortgaged or concealed any part of his property of any kind whatsoever,

he shall be punishable on conviction by the Court with imprisonment which may extend to one year.

70. (1) Where the Court is satisfied that there is ground for inquiring into any offence referred to in section 69, the Court shall direct that a notice be served on the debtor in the manner prescribed in the Code of Criminal Procedure, 1898,* for service of a summons, calling on him to show cause why a charge or charges should not be framed against him.

(2) The notice shall set forth the substance of the offence and any number of offences may be set forth in the same notice.

(3) At the hearing of such notice and of any charge framed in pursuance thereof, the Court shall, so far as may be, follow the procedure for the trial of warrant cases by Magistrates prescribed by Chapter XXI of the Code of Criminal Procedure, 1898,* and nothing in Chapter XXIII of the said Code relating to trials before High Courts and Courts of Session shall be applicable to such trial.

(4) Any number of offences under this section may be charged at the same time :

Provided that no debtor shall be sentenced to imprisonment exceeding an aggregate period of two years for offences under this section committed in the course of the same insolvency proceeding.

(5) The Court may, instead of itself inquiring into an offence under section 69 make a complaint thereof in writing to the nearest Magistrate of the first class having jurisdiction, and such Magistrate shall deal with such complaint in the manner laid down in the Code of Criminal Procedure : †

Provided that it shall not be necessary to examine the complainant.

71. Where an insolvent has been guilty of any of the offences specified in section 69, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved.

72. (1) An undischarged insolvent obtaining credit to the extent of fifty rupees or upwards from any person without informing such person that he is an undischarged insolvent shall, on conviction by a Magistrate, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Where the Court has reason to believe that an undischarged insolvent has committed the offence referred to in sub-section (1), the Court, after making any preliminary inquiry that may be necessary, may send the case for trial to the nearest Magistrate of the first class, and may send the accused in custody or take sufficient security for his appearance before such Magistrate ; and may bind over any person to appear and give evidence on such trial.

73. (1) Where a debtor is adjudged re-adjudged insolvent, under Disqualifications of in- this Act, he shall, subject to the provisions of solvent. this section, be disqualified from—

- (a) being appointed or acting as a Magistrate ,
 - (b) being elected to any office of any local authority where the appointment to such office is by election or holding or exercising any such office to which no salary is attached ; and
 - (c) being elected or sitting or voting as member of any local authority.
- (2) The disqualifications which an insolvent is subject to under this section shall be removed, and shall cease if—
- (a) the order of adjudication is annulled under section 35, or
 - (b) he obtains from the Court an order of discharge, whether absolute or conditional, with a certificate that his insolvency was caused by misfortune without any misconduct on his part.
- (3) The Court may grant or refuse such certificate as it thinks fit, but any order of refusal shall be subject to appeal.

PART V

SUMMARY ADMINISTRATION.

74. When a petition is presented by or against a debtor, if the Court Summary administration. is satisfied by affidavit or otherwise that the property of the debtor is not likely to exceed in value five hundred rupees, the Court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications, namely :—

- (i) unless the Court otherwise directs, no notice required under this Act, shall be published in the local official Gazettee ,
- (ii) on the admission of a petition by a debtor, the property of the debtor shall vest in the Court as a receiver ,
- (iii) at the hearing of the petition the Court shall inquire into the debts and assets of the debtor, and determine and same by order in writing, and it shall not be necessary to frame a schedule under the provisions of section 33 ,
- (iv) the property of the debtor shall be realised with all reasonable, despatch and thereafter, when practicable, distributed in a single dividend ;
- (v) the debtor shall apply for his discharge within six months from the date of adjudication ; and
- (vi) such other modifications as may be prescribed with the view of saving expense and simplifying procedure ;

Provided that the Court may at any time direct that the ordinary procedure provided for in this Act shall be followed in regard to the debtor's estate, and thereafter the Act shall have effect accordingly.

PART VI.

APPEALS.

75. (1) The debtor, any creditor, the receiver or any other person, aggrieved by a decision come to or an order made in the exercise of insolvency jurisdiction by a Court subordinate to a District Court may appeal to the District Court, and the order of the District Court upon such appeal shall be final :

Provided that the High Court, for the purpose of satisfying itself that an order made in any appeal decided by the District Court was according to law, may call for the case and pass such order with respect thereto as it thinks fit :

Provided, further, that any such person aggrieved by a decision of the District Court on appeal from a decision of a subordinate Court under section 4 may appeal to the High Court on any of the grounds mentioned in sub section (1) of section 100 of the Code of Civil Procedure, 1908 *

(2) Any such person aggrieved by any such decision or order of a District Court as is specified in Schedule I, come to or made otherwise than in appeal from an order made by a subordinate Court, may appeal to the High Court.

(3) Any such person aggrieved by any other made by a District Court otherwise than in appeal from an order made by a subordinate Court may appeal to the High Court by leave of the District Court or of the High Court.

(4) The periods of limitation for appeal to the District Court and to the High Court under this section shall be thirty days and ninety days, respectively.

PART VII.

MISCELLANEOUS.

76. The costs of any proceeding under this Act, including the costs of maintaining a debtor in the civil prison, shall subject to any rules made under this Act, be in the discretion of the Court in which the proceeding is had.

77. All Courts having jurisdiction in insolvency and the officers of such Courts, respectively, shall severally act in aid of and be auxiliary to each other in all matters of insolvency, and an order of a Court seeking aid with a request to another of the said Courts shall be deemed

sufficient to enable the latter Court to exercise, in regard to the matters directed by the order, such jurisdiction as either of such Courts could exercise in regard to similar matters within their respective jurisdictions

78. (1) The provisions of sections 5 and 12 of the Indian Limitation Act, 1908,* shall apply to appeals and applications under this Act, and for the purpose of the said section 12, a decision under section 4 shall be deemed to be a decree.

(2) Where an order of adjudication has been annulled under this Act, in computing the period of limitation prescribed for any suit or application for the execution of a decree, (other than a suit or application in respect of which the leave of the Court was obtained under sub-section (2) of section (28) which might have been brought or made but for the making of an order of adjudication under this Act, the period from the date of the order of adjudication to the date of the order of annulment shall be excluded.

Provided that nothing in this section shall apply to a suit or application in respect of a debt provable but not proved under this Act.

79 (1) The High Court may, with the previous sanction, in the case of the High Court of Judicature at Fort William in Bengal, of the Governor General in Council, and, in the case of any other High Court, of the Local Government, make rules for carrying into effect the provisions of this Act

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide—

- (a) for the appointment and remuneration of receivers (other than Official Receivers), the audit of the accounts of all receivers and the costs of such audit,
- (b) for meetings of creditors,
- (c) for the procedure to be followed where the debtor is a firm, and
- (d) for the procedure to be followed in the case of estate to be administered in a summary manner.

(3) All rules made under this section shall be published in the *Gazette of India* or in the local official Gazette as the case may be, and shall, on such publication, have effect as if enacted in this Act

80. (1) The High Court, with the like sanction, may from time to time direct that, in any matters in respect of which jurisdiction is given to the Court by this Act, the Official Receivers shall, subject to the directions of the Court, have all or any of the powers, namely :—

- (a) to hear insolvency petitions, to examine the debtor and to make orders of adjudication
- (b) to frame schedules and to admit or reject proofs of creditors ;
- (c) to grant orders of discharge ;
- (d) to approve compositions or schemes of arrangement ,
- (e) to make interim orders in any case of urgency ; and
- (f) to hear and determine any unopposed or *ex-parte* application

* Act IX of 1908.

(2) Subject to the appeal to the High Court provided for by section 68, any order made or act done by the Official Receiver in the exercise of the said powers shall be deemed the order or act of the Court.

81. Any Local Government,* may, by notification in the local official Gazette, declare that any of the provisions of this Act specified in Schedule II, shall not apply to insolvency proceedings in any Court or Courts having jurisdiction under this Act in any part of the territories administered by such Local Government.

Savings.

82. Nothing in this Act shall—

- (a) affect the Presidency-towns' Insolvency Act, 1909,† or section 8 of the Lower Burma Courts Act, 1900,‡ or
- (b) apply to cases to which Chapter IV. of the Dekkhan Agriculturists' Relief Act, 1879,§ is applicable.

83. (1) The enactments mentioned in Schedule III are hereby repealed to the extent specified in the fourth column thereof.

(2) Where in any enactment or instrument in force at the date of the commencement of this Act, reference is made to Chapter XX (of Insolvent Judgment-debtors) of the Code of Civil Procedure, 1877,|| or of the Code of Civil Procedure, 1882,¶ or to any section of either of those Chapters, such reference shall, so far as may be practicable, be construed as applying to this Act or to the corresponding section thereof.

* Certain words after this repealed by Act 38 of 1920 have been omitted.

† Act III. of 1909. ‡ Act VI. of 1900. § Act XVII. of 1879.

|| Act X. of 1877.

¶ Act XIV. of 1882.

SCHEDULE I.

[See section 75 (2).]

*Decisions and orders from which an appeal lies to the High Court
under section 75 (2).*

Section.	Nature of decision or order.
4	Decision of questions of title, priority, etc., arising in Insolvency.
25	Order dismissing a petition.
26	Order awarding compensation
27	Order of adjudication.
33	Orders regarding entries in the schedule.
35	Order annulling adjudication.
37	Order declaring the conditions on which the debtor's property shall revert to him on annulment of adjudication.
41	Order on application for discharge.
50	Order disallowing or reducing entries in the schedule.
53	Order annulling a voluntary transfer.
54	Decision that a transfer of property is a preference in favour of a creditor.
69	Conviction and sentence of debtor for an offence under this section.

SCHEDULE II.

(See section 81.)

Provisions of the Act application of which may be barred by Local Governments.

Provisions of the Act.	Subject.
Section.	
26	Award of compensation.
28, sub-section (3)	Reputed property of an insolvent.
34	Debts provable under the Act.
38 39 40	} Compositions and schemes of arrangement.
42, sub-sections (1) and (2).	
45 46 47 48 49 50	} Method of proof of debts.
51 52 53 54 55	
51, [except clause (a) of sub-section (1) and sub-section (4)].	
62 63 64 65	} Dividends.
66	
72	

SCHEDULE III.

ENACTMENTS REPEALED.

(See section 83.)

Year.	No.	Short title	Extent of repeal.
1907	III.	The Provincial Insolvency Act, 1907.	So much as has not been repealed.
1914	IV.	The Decentralization Act, 1914.	In Schedule I, Part I., the entry relating to Act III. of 1907.
"	X.	The Repealing and Amending Act, 1914.	In Schedule I., the entries relating to Act III. of 1907.

ACT NO. VI. OF 1920.

The Inland Steam-vessels (Amendment) Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor General on the 25th February, 1920.

An Act to amend the Inland Steam-vessels Act, 1917.

WHEREAS it is expedient to amend the Inland-vessels Act, 1917,* It is hereby enacted as follows.—

Short title. 1. This Act may be called the Indian Steam-vessels (Amendment) Act, 1920

2. After section 22 of the Inland Steam-vessels Act, 1917,* (hereinafter referred to as the said Act), the following section shall be inserted, namely:—
Insertion of new section 22-A in Act I. of 1917.

Licenses. "22-A. (1) The Local Government may also, in its discretion, grant—

- (a) to a person who is in possession of a second-class master's certificate granted under section 21 or section 22, and has, by virtue of such certificate, acted as master of an inland steam-vessel having engines of forty or more nominal horse-power for a period of not less than five years, or
- (b) to a person who is in possession of a first-class engine-driver's certificate granted under section 21 or section 22, or an engine driver's certificate granted under the Indian Steamships Act, 1884,† and has, by virtue of such certificate, served as an engine driver of an inland steam-vessel having engines of not less than seventy nominal horse-power for five years, for not less than, two and a half years of which period he has been the engine-driver of such vessel within the meaning of section 26,

a licence authorising such person to act as master or engineer, as the case may be, of any inland steam-vessel having engines of one hundred and seventy nominal horse-power or of such less nominal horse-power as to such Government may deem fit.

(2) Any such licence shall remain in force only for such time as the person holding the same is in possession of and entitled to a master's or an engine-driver's certificate, as the case may be, of the nature referred to in sub-section (1).

Provided that the Local Government may, in its discretion, suspend, cancel or vary the conditions of any such license."

3. In section 23 of the said Act, after the word "service" the words "and every licence" shall be inserted, and after the words "entitled to the certificate" the words "or licence" shall be inserted.
Amendment of section 23, Act I. of 1917.

* Act I of 1917.

† Act VII. of 1884.

4. In section 24 of the said Act, after the word "certificate" in each place where it occurs, the words "or licence" shall be inserted.

Amendment of section 24,
Act I. of 1917.

6 In section 25 of the said Act—

(1) for the word "eighty" the words one "hundred" shall be substituted.

(2) In clause (a), after the words and figures "Merchant Shipping Act, 1894," the following words shall be inserted, namely:—
"or a master's licence granted under section 22A and applicable to such vessel and voyage."

(3) At the end of clause (b), the following words shall be added, namely:—

"or an engine-driver's licence granted under section 22-A and applicable to such vessel and voyage",

6. In section 26 of the said Act, for the word "thirty" the word "forty," and for the word "eighty" the words "one hundred." shall be substituted.

Amendment of section 26,
Act I. of 1917.

7. In section 27 of the said Act, for the word "thirty" the word "forty" shall be substituted.

Amendment of section 27,
Act I. of 1917.

8. After section 30 of the said Act the following section shall be inserted, namely:—

Insertion of new section
30-A in Act I. of 1917.

"30-A. The Local Government may also make rules to regulate the granting of licences under section 22-A, and may by such rules prescribe in particular—

(a) the fees (if any) to be paid for such licences, and

(b) the forms in which such licences are to be framed and the authority by whom and the manner in which copies are to be kept and recorded under section 23 "

Amendment of section 31,
Act I. of 1917.

9. (1) In section 31 of the said Act, after the word "service" where it first occurs the words "and licences" shall be inserted.

(2) In clause (1) of the said section, after the word "serang" the words "and a licence" shall be inserted.

(3) In the provisos to the said section, after the word "certificate" in each place where it occurs, the words "or licence" shall be inserted.

Amendment of section 59,
Act I. of 1917.

10. (1) In clause (a) of section 59 of the said Act, after the words "engine-driver's certificate" the words "or a master's or engine-driver's licence" shall be inserted.

(2) In clause (b) of the said section after the words "such certificate" words "or licence" shall be added.

ACT NO. VIII. OF 1920.

The Dourine (Amendment) Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 4th March, 1920.

An Act to amend the Dourine Act, 1910.

WHEREAS it is expedient to amend the Dourine Act, 1910,* It is hereby enacted as follows :—

Short title. 1. This Act may be called the Dourine (Amendment) Act, 1920.

Amendment of section 5, 2. In section 5 of the Dourine Act, 1910*
Act V. of 1910. (hereinafter referred to as the said Act),—

(1) the word "and" at the end of clause (a) shall be omitted ; and

(2) after clause (b) the following clause shall be added, namely :—

"(c) direct, by order in writing, the owner or keeper of any horse which, in the opinion of the Inspectors, is affected with dourine to remove it or permit it to be removed for the purpose of segregation to a place specified in the order, and such direction shall be sufficient authority for the detention of the horse in that place for that purpose."

Amendment of section 6, 3. In section 6 of the said Act the word
Act V. of 1910. and letter "clause (b)" shall be omitted.

Amendment of section 8, 4 In section 8 of the said Act—
Act V. of 1910.

(1) in clause (a) the word and letter "clause (b)" shall be omitted ;
and

(2) in clause (b)—

(a) after the words "on microscopical examination" the words "or by other scientific test" shall be inserted ; and

(b) for sub-clause (ii) the following shall be substituted namely :—

"(ii) in the case of a mare, with the previous sanction of such authority as the Local Government may appoint in this behalf, or, if so empowered by the Local Government, without such sanction, cause it to be destroyed.

Amendment of section 14, 5. In sub-section (2) of section 14 of the
Act V. of 1910. said Act—

* Act V. of 1910.

(1) for clause (a) the following shall be substituted, namely :—

“(a) regulate the exercise of the powers conferred on Inspectors under section 5” ; and

(2) the word ‘and’ at the end of clause (b) and the whole of clause (c) shall be omitted.

Amendment of section 15,
Act V. of 1910.

6. For clauses (b) and (c) of section 15 of the said Act, the following shall be substituted, namely :—

“(b) any horse in respect of which an order under clause (b) or clause (c) of section 5 is in force.”

ACT NO. X. OF 1920.

The Indian Securities Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor General on the 11th March, 1920.

An Act to consolidate and amend the law relating to Government securities.

WHEREAS it is expedient to consolidate and amend the law relating to Government securities ; It is hereby enacted as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Indian Securities Act, 1920 ;

(2) It extends to the whole of British India, including British Baluchistan, and

(3) It shall come into force on the first day of April, 1920.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Government security" means promissory notes (including treasury bills), stock-certificates, bearer bonds and all other securities issued by the Governor-General in Council or by any Local Government in respect of any loan contracted either before or after the passing of this Act, but does not include a currency-note ; and

(b) "prescribed" means prescribed by rules made under this Act.

3 (1) Save as otherwise provided in or under this Act, no notice of any trust in respect of any Government security shall be receivable by the Government.

Notice of trust not receivable save as provided.

(2) The Government shall not be deemed to have received notice of any trust by reason only of the fact that it has recognised an indorsement on a Government security by an executor or administrator as such, nor shall it inquire into the terms of any will by which such executor or administrator may be bound but, on being satisfied of the due appointment of such executor or administrator, it shall be entitled to treat him as the full owner of any Government security belonging to the estate of the person whom he represents.

Right of survivors of joint or several payees of Government securities. 4 (1) Notwithstanding anything in section 45 of the Indian Contract Act, 1872,*—

(a) when a Government security is payable to two or more persons jointly, and either or any of them dies, the security shall be payable to the survivor or survivors of those persons, and

(b) when a Government security is payable to two or more persons severally, and either or any of them dies, the security shall be payable to

* Act IX. of 1872.

the survivor or survivors of those persons, or to the representative of the deceased, or to any of them.

(2) This section shall apply whether such death occurred or occurs before or after this Act comes into force.

(3) Nothing herein contained shall affect any claim which any representative of a deceased person may have against the survivor or survivors under or in respect of any security to which sub section (1) applies.

5. Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881,* no indorsement of a Government promissory note shall be valid unless made by the signature of the holder inscribed on the back of the security itself.

6. (1) In the case of any public office to which the Governor-General in Council may, by notification in the *Gazette of India*, declare this sub-section to apply, a Holding of Government securities by holders of public offices Government security may be made or indorsed payable to or to the order of the holder of the office by the name of the office.

(2) When a Government security is made or indorsed as aforesaid, it shall be deemed to be transferred without any or further indorsement from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

(3) When the holder of the office indorses to a third party a Government security made or indorsed as aforesaid, he shall subscribe the indorsement with his name and the name of the office.

(4) A writing on a Government security now or heretofore standing in the name of the holder of a public office, whereby the security has been or was made or indorsed payable to or to the order of the holder of the office by the name of the office, shall not be deemed to be or to have been invalid by reason only of the security having been so made or indorsed.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

7. Notwithstanding anything in the Negotiable Instruments Act, 1881,* the Governor-General in Council may, in respect of any loan, issue to the ruler of any State in India Government securities in such form and subject such conditions as to negotiability, succession and other matters as may be prescribed.

8. Notwithstanding anything in the Negotiable Instruments Act, 1881,* a person shall not, by reason only of his having indorsed a Government security, be liable to pay any money due, either as principal or as interest, thereunder.

* Act XXVI. of 1881.

9. (1) The signature of the person authorised to sign Government securities on behalf of the Government may be printed, engraved or lithographed, or impressed by such other mechanical process as the Governor-General in Council may direct on the securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the person so authorised.

Issue of duplicate, renewed, converted, consolidated or sub divided securities.

10 (1) When a Government security is alleged to have been lost or destroyed either wholly or in part, and a person claims to be the person to whom but for the loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim and on payment of the prescribed fee, if any, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant

(2) An order shall not be passed under sub section (1) until after the issue of the prescribed notification of the loss or destruction.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the prescribed manner.

11. The holder of a bearer bond or other Government security payable to bearer, may, on application to the prescribed officer, on delivery of the bearer bond or other security, and on payment of the prescribed fee, if any, obtain from such officer a renewed bearer bond or other security, as the case may be.

12. Subject to the provisions of section 13, a person claiming to be entitled to a Government promissory note, may, on applying to the prescribed officer, and on satisfying him of the justice of his claim and delivering the promissory note receipted in the prescribed manner, and paying the prescribed fee, if any, obtain from such officer a renewed promissory note payable to him,

Provided that, when application is made for the renewal of a Government promissory note which appears to the prescribed officer to stand in the name of a deceased member of a Hindu undivided family governed by the *Mitakshara* law, a renewed promissory note shall not be issued to the applicant unless he furnishes a certificate signed by such authority and after such inquiry as may be prescribed to the effect that the deceased belonged to a Hindu undivided family governed by the *Mitakshara* law, that the promissory note formed part of the joint property of the family and that the applicant is the managing or sole surviving male member of the family.

Explanation—The expression "Hindu undivided family governed by the *Mitakshara* law" shall, for the purposes of this section, be deemed to include a Malabar *tarwaa*.

13. (1) Where there is a dispute as to the title to a Government promissory note in respect of which an application for renewal has been made, the prescribed officer may—

Renewal of promissory notes in case of dispute as to title.

- (a) where any party to the dispute has obtained a final decision from a Court of competent jurisdiction declaring him to be entitled to such note, issue a renewed note in favour of such party, or
- (b) refuse to renew the note until such a decision has been obtained, or
- (c) after such inquiry as is hereinafter provided, and consideration of the result thereof, declare by order in writing which of the parties is in his opinion entitled to such note and may, after the expiration of three months from the date of such declaration, issue a renewed note in favour of such party in accordance with the provisions of section 12, unless within that period he has received notice that proceedings have been instituted by any person in a Court of competent jurisdiction for the purpose of establishing a title to such note.

Explanation—For the purposes of this sub-section the expression "final decision" means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

(2) For the purpose of the inquiry referred to in sub-section (1), the prescribed officer may himself record, or may request the District Magistrate to record or to have recorded, the whole or any part of such evidence as the parties may produce. When such request has been made to the District Magistrate, such Magistrate may himself record or may direct any Magistrate of the first-class subordinate to him, or any Magistrate of the second class subordinate to him and empowered by general or special order of the Local Government in this behalf, to record the evidence, and shall forward a copy thereof to the prescribed officer.

Explanation.—For the purposes of this sub-section, the District Magistrate means the District Magistrate having jurisdiction in the place where interest on the promissory note is payable and, where interest is payable at a presidency town the Chief Presidency Magistrate or at a place in a State in India, the Political Agent

(3) The prescribed officer or any Magistrate acting under this section may, if he thinks fit, record evidence on oath.

14. Government securities other than those mentioned in sections 11 and 12 may be renewed in such circumstances and in such manner as may be prescribed.

Renewal of other securities.

15. (1) The prescribed officer may, subject to such conditions as may be prescribed, on the application of a person claiming to be entitled to a Government security or securities, on being satisfied of the justice of the claim and on delivery of thy security or securities receipted in the prescribed manner and on payment of the prescribed fee, if any, convert, consolidate or sub divide the security or securities, and issue to the applicant a new security or securities accordingly.

(2) The conversion, consolidation, or sub-division referred to in sub-section (1) may be into a security or securities of the same or different classes or of the same or different loans

16. (1) When a renewed Government promissory note has been issued under section 12, or a new Government promissory note has been issued upon conversion consolidation or sub-division under section 15, in favour of any person, the note so issued shall be deemed to constitute a new contract between the Government and such person and all persons deriving title thereafter through him.

(2) No such renewal, conversion, consolidation or sub-division shall affect the rights as against the Government of any other person to the security or securities so renewed, converted, consolidated or sub-divided.

Discharge

17 On payment by or on behalf on the Government to the holder of a bearer bond or other Government security payable to bearer of the amount expressed therein on or after the date when it becomes due, or on renewal of a bearer bond or other security payable to bearer under section 11, or on renewal of a Government promissory note under section 13, or on conversion consolidation or sub division of a bearer bond or other security payable to bearer under section 15, the Government shall be discharged in the same way and to the same extent as if such bearer bond, promissory note or other security were a promissory note payable to bearer :

Provided that, in the case of a Government promissory note renewed under section 13, nothing in this section shall be deemed to bar a claim against the Government in respect of such note by any person who had no notice of the proceedings under that section, or who derives title through any such person.

18. Save as otherwise provided in this Act—

Discharge in other cases.

- (i) on payment of the amount due on a Government security on or after the date on which payment becomes due, or
- (ii) when a duplicate security has been issued under section 10, or
- (iii) when a renewed security has been issued under section 12 or section 13, or a new security or securities has or have been issued upon conversion, consolidation or sub-division under section 15,

the Government shall be discharged from all liability in respect of the security or securities so paid or in place of which a duplicate, renewed, or new security or securities has or have been issued—

- (a) in the case of payment—after the lapse of six years from the date on which payment was due ;
- (b) in the case of a duplicate security—after the lapse of six years from the date of the publication under subsection (3) of section 10 of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is later ,
- (c) in the case of a renewed security or of a new security issued upon conversion, consolidation or sub division—after the lapse of six years from the date of the issue thereof.

Summary procedure in certain cases.

19 (1) If within six months of the death of a person who was entitled to a Government security or securities (other than a security payable to bearer) the nominal or face value of which does not in the aggregate exceed five thousand rupees, probate of the will or letters of administration of the estate of such person or a certificate granted under the Succession Certificate Act, 1889,* is not produced to the prescribed officer, such officer may, after inquiry in the manner provided in subsections (2) and (3) of section 13, determine who is the person entitled to the security or securities or to administer the estate of the deceased, and may—

Procedure on death of holder of securities not exceeding an aggregate value of five thousand rupees.

- (a) in the case of any such security relating to a loan due for repayment, authorise payment of the amount due thereon to such person , and
- (b) in the case of any such security relating to a loan not due for repayment, authorise, in the case of a promissory note, the renewal of such promissory note in favour of such person, or, in the case of stock, the registration of the name of such person in substitution for the name of the deceased.

(2) Upon the payment or renewal of any promissory note in accordance with subsection (1), the Government shall be discharged from all liability in respect of the note so paid or renewed , and any substitution of names made in accordance with clause (b) of subsection (1) shall, for the purposes of any claim against the Government deemed to have effected a valid transfer of the stock in respect of which it was made.

(3) Any creditor or claimant against the estate of the deceased may recover his debt or claim out of money paid to any person under subsection (1) and remaining in his hands unadministered in the same manner and to the same extent as if the said person had obtained letters of administration of the estate of the deceased, and nothing in this section shall affect any claim of an executor or administrator or other representative of the deceased against such person other than a claim to recover

* Act VII. of 1889.

amounts lawfully paid by him in due course of administration of the estate of the deceased.

Securities held by minors and lunatics.

20 Where a Government security stands in the name of or is held by a minor or a person who is insane and incapable of managing, his affairs, the interest accruing thereon, or the capital sum payable in respect thereof on the maturity or discharge of the loan shall, where, in the case of interest payable, the nominal value of the security, or in other cases the sum payable, does not exceed five thousand rupees, be paid in such manner as may be prescribed, and on any payment being so made, the Government shall, notwithstanding any provision of any enactment to the contrary, be discharged from all liability in respect thereof.

Indemnity.

21. Notwithstanding anything in section 10, 12, 13 or 15, the prescribed officer may in any case arising under any Indemnity of those sections—

- (1) issue a duplicate or renewed security or convert, consolidate or subdivide a security or securities upon the applicant giving the prescribed indemnity against the claims of all persons claiming under the original security or under the security or securities so renewed, converted, consolidated or sub divided, as the case may be, or
- (2) refuse to issue a duplicate or renewed security or to convert, consolidate or sub divide a security or securities unless such indemnity is given.

Inspection of registers, books and documents.

22 No person shall be entitled to inspect, or to receive information derived from any Government security in the possession of the Government or from any book, register or other document kept or maintained by or on behalf of Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed

Penalty.

23, (1) If any person, for the purpose of obtaining for himself or for any other person payment of interest or of the capital sum due in respect of any Government security or the issue of a duplicate security or the renewal, conversion, consolidation or subdivision of a Government security or securities, makes to any authority under this Act a statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of any offence under sub-section (1) save on the complaint of the authority to whom the false statement was made.

Rules.

24. (1) The Governor General in Council may after previous publication make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely :—

- (a) the manner in which payment of interest in respect of Government securities is to be made and acknowledged ;
- (b) the circumstances in which Government securities must be renewed before further payment of interest thereon can be claimed ;
- (c) the form in which and the conditions subject to which Government securities may be issued to the rulers of States in India ;
- (d) the fees to be paid in respect of the issue of duplicate securities and of the renewal, conversion, consolidation and sub-division of Government securities ;
- (e) the proof which is to be produced by persons applying for duplicate securities ;
- (f) the form and manner of publication of the notification mentioned in sub section (2) of section 10 and the manner of publication of the list mentioned in sub-section (3) of that section ;
- (g) the officer who is to exercise all or any of the powers and to perform all or any of the duties referred to in sections 10, 11, 12, 13, 15, 19 and 21 ;
- (h) the manner of making the enquiry mentioned in the proviso to section 12 ;
- (i) the circumstances and the manner in which securities other than securities payable to bearer or promissory notes are to be renewed ;
- (j) the form in which securities delivered for discharge, renewal, conversion, consolidation or sub-division are to be receipted ;
- (k) the conditions subject to which securities may be converted, consolidated or sub-divided ;
- (l) the person to whom and the manner in which payments are to be made in respect of Government securities standing in the name of, or held by, minors or persons who are insane and incapable of managing their affairs ;
- (m) the taking of indemnities against adverse claims of third parties from persons who receive payment of interest or of the capital sum due in respect of Government securities, or who obtain duplicate, renewed, converted, consolidated or sub-divided securities ;

- (n) the manner in which any document relating to Government securities or any indorsement on a Government promissory note may, on the demand of any person who from any cause is unable to write, be executed on his behalf ;
- (o) enabling holders of Government stock to be described in the registers of such stock as trustees, and either as trustees of any particular trust or as trustees without qualification, and for the recognition of powers of attorney granted by holders of stock so described ;
- (p) the holding of Government stock by the holders of offices other than public offices, and the manner in which and the conditions subject to which stock so held may be transferred ;
- (q) the mode of attestation of documents relating to Government stock ,
- (r) generally, all matters connected with the grant of duplicate, renewed, converted, consolidated and sub-divided securities ; and
- (s) the circumstances and the manner in which, and the conditions subject to which, inspection of securities, books registers and other documents may be allowed or information therefrom may be given under section 22

(3) Nothing in any rules made under clauses (o) and (p) shall, as between any trustees or as between any trustees and the beneficiaries under a trust, be deemed to authorise the trustees to act otherwise than in accordance with the rules of law applying to the trust and the terms of the instrument constituting the trust ; and neither the Government nor any person holding or acquiring any interest in any Government stock shall by reason only of any entry in any register maintained by or on behalf of the Government in relation to any Government stock or any stockholder, or of anything in any document relating to Government stock, be affected with notice of any trust or of the fiduciary character of any stockholder or of any fiduciary obligation attaching to the holding of any Government stock.

(4) Rules made under this section shall be published in the *Gazette of India*, and shall thereupon have effect as if enacted in this Act.

Repeals.

25 On and from the date on which this Act comes into force, the
 Repeals Indian Securities Act, 1886,* and so much of
 the First and Second Schedules of the Repeal-
 ing and Amending Act, 1914,† as relates to the Indian Securities Act,
 1886* shall be repealed,

* Act XIII. of 1886.

† Act X. of 1914.

ACT NO. XI. OF 1920.

The Presidency-towns Insolvency (Amendment) Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

Received the assent of the Governor-General on the 11th March, 1920.

An Act further to amend the Presidency-towns Insolvency Act, 1909.

WHEREAS it is expedient further to amend the Presidency-towns Insolvency Act, 1909 ;* It is hereby enacted as follows :—

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| Short title, | 1. This Act may be called the Presidency-towns Insolvency (Amendment) Act, 1920. |
| Insertion of new section 103A in Act III. of 1909. | 2. After section 103 of the Presidency-towns Insolvency Act, 1909,* the following section shall be inserted, namely:— |

“103A (1) Where a debtor is adjudged or re-adjudged insolvent under this Act, he shall, subject to the provisions of this section, be disqualified from—

- (a) being appointed or acting as a Magistrate ;
 - (b) being elected to any office of any local authority where the appointment to such office is by election, or holding or exercising any such office to which no salary is attached ; and
 - (c) being elected or sitting or voting as a member of any local authority.
- (2) The disqualifications which an insolvent is subject to under this section shall be removed, and shall cease if—
- (a) the order of adjudication is annulled under sub-section (1) of section 21, or
 - (b) he obtains from the Court an order of discharge, whether absolute or conditional, with a certificate that his insolvency was caused by misfortune without any misconduct on his part.
- (3) The Court may grant or refuse such certificate as it thinks fit.

* Act III. of 1909.

ACT NO. XIII OF 1920.

The Import and Export of Goods (Amendment) Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL,

Received the assent of the Governor General on the 20th March, 1920.

An Act to amend the Import and Export of Goods Act, 1916.

WHEREAS it is expedient to amend the Import and Export of Goods Act 1916,* It is hereby enacted as follows :

Short title.

1. This Act may be called the Import and Export of Goods (Amendment) Act, 1920.

2. In sub-section (3) of section 1 of the Import and Export of Goods Act, 1916,* for the words "during the continuance of the present war, and for a period of six months thereafter" the words "up to the 31st day of March, 1921," shall be substituted.

Amendment of section 1,
Act XI. of 1916.

* Act XI, of 1916.

ACT NO. XIV OF 1920

The Charitable and Religious Trusts Act 1920

PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 20th March, 1920.

An Act to provide more effectual control over the administration of Charitable and Religious Trusts.

WHEREAS it is expedient to provide facilities for the obtaining of information regarding trusts created for public purposes of a charitable or religious nature, and to enable the trustees of such trusts to obtain the directions of a Court on certain matters, and to make special provision for the payment of the expenditure incurred in certain suits against the trustees of such trusts, It is hereby enacted as follows :—

Short title and extent. 1. (1) This Act may be called the Charitable and Religious Trusts Act, 1920.

(2) It extends to the whole of British India :

Provided that the Governor-General in Council may, by notification in the Gazette of India, direct that this Act, or any specified part thereof, shall not extend to any specified Province or area, or to any specified trust or class of trusts.

2. In this Act, unless there is anything repugnant in the subject or context, "the Court" means the Court of the District Judge, "or any other Court empowered in that behalf by the local Government" and includes the High Court in the exercise of its ordinary original civil jurisdiction.

3. Save as hereinafter provided in this Act, any person having an interest in any express or constructive trust created or existing for a public purpose of a charitable or religious nature may apply by petition to the Court within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate to obtain an order embodying all or any of the following directions, namely :—

- (1) directing the trustee to furnish the petitioner through the Court with particulars as the nature and objects of the trust, and of the value, condition, management and application of the subject matter of the trust, and of the income belonging thereto, or as to any of these matters, and
- (2) directing that the accounts of the trust shall be examined and audited :

Provided that no person shall apply for such direction in respect of accounts relating to a period more than three years prior to the date of the petition.

* The words within quotations have been inserted by Act 41 of 1923.

4. (1) The petition shall show in what way the petitioner claims to be interested in the trust, and shall specify, as far as may be, the particulars and the audit which he seeks to obtain.

Contents and verification of petition.

(2) The petition shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908,* for signing and verifying plaints.

5. (1) If the Court on receipt of a petition under section 3, after taking such evidence and making such inquiry, if any, as it may consider necessary, is of opinion that the trust to which the petition relates is a trust to which this Act applies, and that the petitioner has an interest therein, it shall fix a date for the hearing of the petition and shall cause a copy thereof, together with notice of the date so fixed, to be served on the trustee and upon any other person to whom in its opinion notice of the petition should be given.

Procedure on petition

(2) On the date fixed for the hearing of the petition, or on any subsequent date to which the hearing may be adjourned, the Court shall proceed to hear the petitioner and the trustee, if he appears, and any other person who has appeared in consequence of the notice, or who it considers ought to be heard and shall make such further inquiries, if any, as it thinks fit. The trustee may and, if so required by the Court, shall at the time of the first hearing or within such time as the Court, may permit present a written statement of his case. If he does present a written statement, the statement shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908,* for signing and verifying pleadings.

(3) If any person appears at the hearing of the petition and either denies the existence of the trust or denies that it is a trust to which this Act applies, and undertakes to institute within three months a suit for a declaration to that effect and for any other appropriate relief, the Court shall order a stay of the proceedings and, if such suit is so instituted, shall continue the stay until the suit is finally decided.

(4) If no such undertaking is given, or if after the expiry of the three months no such suit has been instituted, the Court shall itself decide the question.

(5) On completion of the inquiry provided for in sub-section (2), the Court shall either dismiss the petition or pass thereon such other order as it thinks fit :

Provided that, where a suit has been instituted in accordance with the provisions of sub-section (3), no order shall be passed by the Court which conflicts with the final decision therein.

(6) Save as provided in this section, the Court shall not try or determine any question of title between the petitioner and any person claiming title adversely to the trust

6. If a trustee without reasonable excuse fails to comply with an order made under sub-section (5) of section 5, such trustee shall, without prejudice to any other penalty or liability which he may incur under any law for the time being in force, be deemed to have committed a breach of trust affording ground for a suit under the provisions of section 92 of the Code of Civil Procedure, 1908; and any such suit may, so far as it is based on such failure, be instituted without the previous consent of the Advocate General.

7. (1) Save as hereinafter provided in this Act any, trustee of an express or constructive trust created or existing for a public purpose of a charitable or religious nature may apply by petition to the Court, within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate, for the opinion, advice or direction of the Court on any question affecting the management or administration of the trust property, and the Court shall give its opinion, advice or direction as the case may be, thereon :

Provided that the Court shall not be bound to give such opinion advice or direction on any question which it considers to be a question not proper for summary disposal.

(2) The Court on a petition under sub-section (1), may either give its opinion, advice or direction thereon forthwith, or fix a date for the hearing of the petition, and may direct a copy thereof, together with notice of the date so fixed, to be served on such of the persons interested in the trust or to be published for information in such manner as it thinks fit.

(3) On any date fixed under sub-section (2) or on any subsequent date to which the hearing may be adjourned, the Court before giving any opinion, advice or direction, shall afford a reasonable opportunity of being heard to all persons appearing in connection with the petition.

(4) A trustee stating in good faith the facts of any matter relating to the trust in a petition under sub-section (1), and acting upon the opinion, advice or direction of the Court given thereon shall be deemed, as far as his own responsibility is concerned, to have discharged his duty as such trustee in the matter in respect of which the petition was made

8. The costs, charges and expenses of and incidental to any petition and all proceedings in connection therewith, under the foregoing provisions of this Act shall be in the discretion of the Court, which may direct the whole or any part of any such costs, charges and expenses to be met from the property or income of the trust in respect of which the petition is made, or to be borne and paid in such manner and by such persons as it thinks fit :

Provided that no such order shall be made against any person (other than the petitioner, who has not received notice of the petition and had a reasonable opportunity of being heard thereon

9. No petition under the foregoing provisions of this Act in relation to any trust shall be entertained in any of the following circumstances, namely :—

Savings.

- (a) if a suit instituted in accordance with the provisions of section 92 of the Code of Civil Procedure, 1908,* is pending in respect of the trust in question ;
- (b) if the trust property is vested in the Treasurer of Charitable Endowments, the Administrator-General, the Official Trustee or any Society registered under the Societies Registration Act, 1860,† or
- (c) if a scheme for the administration of the trust property has been settled or approved by any Court of competent jurisdiction, or by any other authority acting under the provisions of any enactment.

10. (1) In any suit instituted under section 14 of the Religious Endowments Act, 1863,‡ or under section 92 of the Code of Civil Procedure, 1908,* the Court

Power of Courts as to costs in certain suits against trustees of charitable and religious trusts

trying such suit may if, on application of the plaintiff and after hearing the defendant and making such inquiry as it thinks fit, it is satisfied that such an order is necessary in the public interest, direct the defendant either to furnish security for any expenditure incurred, or likely to be incurred, by the plaintiff in instituting and maintaining such suit, or to deposit from any money in his hands as trustee of the trust to which the suit relates such sum as such Court considers sufficient to meet such expenditure in whole or in part.

(2) When any money has been deposited in accordance with an order made under sub-section (1), the Court may make over to the plaintiff the whole or any part of such sum for the conduct of the suit. Before making over any sum to the plaintiff, the Court shall take security from the plaintiff for the refund of the same in the event of such refund being subsequently ordered by the Court.

Provisions of the Code of Civil Procedure to apply.

11. (1) The provisions of the Code of Civil Procedure, 1908,* relating to—

- (a) the proof of facts by affidavit,
- (b) the enforcing of the attendance of any person and his examination on oath,
- (c) the enforcing of the production of documents, and
- (d) the issuing of commissions.

shall apply to all proceedings under this Act, and the provisions relating to the service of summonses shall apply to the service of notices thereunder.

(2) The provisions of the said Code relating to the execution of decrees shall, so far as they are applicable, apply to the execution of orders under this Act.

Barring of appeals.

12. No appeal shall lie from any order passed or against any opinion, advice or direction given under this Act.

* Act V. of 1908.

† Act XXI of 1860

‡ Act XX. of 1863.

ACT NO. XV. OF 1920.

The Indian Red Cross Society Act, 1920.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 20th March, 1920.

An Act to constitute an Indian Red Cross Society

WHEREAS it is expedient to provide for the future administration of the various monies and gifts received from the public for the purpose of medical and other aid to the sick and wounded, and other purposes of a like nature during the late war, and more especially for the administration of the monies and property held by a Committee known as the Joint War Committee, Indian Branch, of the Order of St. John of Jerusalem in England and the British Red Cross Society,

AND WHEREAS it is expedient to constitute an Indian Red Cross Society with a view to the continuation in peace time, on a wider basis and with a wider purpose, of the work carried on by the said Committee during the war, and to provide, for the affiliation therewith of other societies and bodies having similar objects, It is hereby enacted as follows :

Short title and extent.

1. (1) This Act may be called the Indian Red Cross Society Act, 1920.

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the District of Angul.

2. There shall be constituted by this Act a Society to be known as the Indian Red Cross Society (hereinafter called the Society). The first members of the Society shall be nominated by persons who immediately before the commencement of this Act were members of the Joint War Committee, Indian Branch, of the Order of St John of Jerusalem in England and the British Red Cross Society (hereinafter called the Committee) at meeting to be summoned and held for that purpose in accordance with the usual practice of the Committee within three months from the commencement of this Act. The number of members to be so nominated shall not be less than twenty five or more than fifty.

Appointment of Managing Body.

3. The Committee shall also at the same meeting appoint from among the members nominated under section 2 the Managing Body of the Society (hereinafter called the Managing Body), the members of which shall hold office as such until a new Managing Body is appointed as hereinafter provided. The number of members of the Managing Body shall not be less than ten or more than thirty.

Incorporation.

4. The first members of the Society and all persons who may hereafter become members thereof so long as they continue so to be, are hereby constituted a body corporate under the name of the Indian Red Cross Society, and the said body shall have perpetual succession and a common seal with power to

hold and acquire property, moveable and immoveable, and shall sue and be sued by the said name.

5. The Managing Body shall, within six months from the commencement of this Act and subject to the condition of previous publication, make rules for the management, control and procedure of the Society. The rules may provide among other matters for the following, namely —

- (a) the conditions of membership of the Society ;
- (b) the appointment and term of office of members of the Managing Body ,
- (c) the choice of representatives on International and other Committees ,
- (d) representation on the Managing Body of Provincial and State Branch Committees and affiliated societies and bodies ;
- (e) the constitution of Finance, Medical and other Committees and the delegation of powers to them , and
- (f) the regulation of the procedure generally of the Society and Managing Body.

Dissolution and transfer
of property of Joint War
Committee

6 Upon the nomination of the first members of the Society and the appointment of the Managing Body —

- (a) the Committee shall be dissolved ,
- (b) all property, moveable or immoveable, of or belonging to the Committee shall vest in the Society and shall be applied by the Managing Body to the objects and purposes hereinafter set out , and
- (c) all the debts and liabilities of the Committee shall be transferred to the Society, and shall thereafter be discharged and satisfied by it out of the aforesaid property, and each and every member of the Committee shall be wholly discharged therefrom.

7 Notwithstanding anything contained in any appeal for subscriptions or gifts to or for the purposes of the Committee, the Managing Body may in its discretion apply—
Purposes to which funds
of Society may be applied

- (a) either the corpus or the income or any part of such corpus or income of any property vested in it under clause (b) of section 6 for the relief of sickness, suffering or distress caused by the operation of war in India or in any other country in which Expeditionary Forces from India may, from time to time, be employed and for purposes cognate to that object and in maintaining Red Cross Depots for Military purposes ,
- (b) in accordance with the provisions of section 8 the income only of any such property but not the corpus or any part thereof for the relief of sickness or suffering in India, whether due to the operation of war or not, or in pursuance of any of the objects set forth in the First Schedule.

8. If Branch Committees consisting of Members of the Society are constituted in any of the Provinces, States and other parts of India specified in the Second Schedule, then, subject to the requirements of the Managing Body for the purposes of clause (a) of section 7 and any provision for expenses of management, the income of the property which has been vested in the Society under clause (b) of section 6 shall be distributed annually among such Branch Committees in the proportion shown in the said Schedule, to be expended by them and at their discretion upon all or any of the objects referred to in clause (b) of section 7

9 The Managing Body may also affiliate to the Society any other society or body having all or any of the objects and purposes referred to in section 7, and may provide for the allocation and distribution of funds, through such society or body, to or for any such objects or purposes.

10 The Managing Body shall have authority to determine in all cases what matters properly fall within the scope of clause (b) of section 7, and its decision in all such matters shall be binding on all Branch Committees and affiliated societies or bodies.

11 The Managing Body may also receive and hold gifts of whatever description either for the general purposes of the Society or for any particular purpose for which the corpus or income of the property vested in it under clause (b) of section 6 may be applied under the provisions of section 7, and on receipt of such gift, may, subject to the provisions of rules made under section 5, apply the same to such purposes, either directly or through Branch Committees, or societies or bodies affiliated under section 9

12 Subject to the provisions of rules made under section 5, each Branch Committee shall have all power to regulate its own procedure and constitution, to receive gifts and expend all monies received by it for its purposes, either directly or through other societies or bodies

FIRST SCHEDULE

(See section 7)

Objects to which the funds of the Society may be applied :—

(1) The care of the sick and wounded men of His Majesty's Forces, whether still on the active list or demobilised.

(2) The care of those suffering from tuberculosis, having regard in the first place to soldiers and sailors, whether they have contracted the disease on active service or not.

(3) Child welfare.

(4) Work parties to provide the necessary garments, etc., for hospitals and health institutions in need of them

(5) Assistance required in all branches of nursing, health and welfare work, ancillary to any organisations which have or may come into being in India and which are recognised by the Society.

- (6) Home Service Ambulance Work.
- (7) Provision of comforts and assistance to members of His Majesty's Forces, whether on the active list or demobilised.
- (8) Such other cognate objects as may, from time to time, be approved by the Society.
- (9) The expenses of management of the Society and its branches and affiliated societies and bodies
- (10) The representation of the Society on or at International or other Committees formed for furthering objects similar to those of the Society.

SECOND SCHEDULE.

(See section 8)

Statement showing contributions made by Provinces and States in India to the Central "Our Day" Fund and the approximate percentage of their claim on the interest on the capital fund of the Joint War Committee, Indian Branch

Names of Provinces, States, etc				Amount of contribution	Approximate Percentage of Claim on the interest of Capital Fund
				Lakhs	
United Provinces	...	...	...	15	18
Bombay	...	...	...	10	12
Bengal	...	...	...	10	12
Punjab	...	...	...	11	13
Burma	...	...	...	6	7
Central Provinces	...	...	...	4	4.5
Bihar and Orissa	...	...	...	5½	6
Rajputana	...	...	...	1	1.5
Madras	...	...	...	6	7
Central India	...	...	...	3½	3.5
North-West Frontier	...	...	...	2½	2.5
Hyderabad	...	...	...	3	3.5
Assam	...	...	...	1½	1.5
Baluchistan	...	...	...	1½	1.5
Mysore	...	...	...	1½	1.5
Kashmir	...	...	...	1	1
Baroda	...	...	...	½	.5
Delhi	...	...	...	3	.5

ACT NO. XVI. OF 1920.

The Jagannath College Act, 1920.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 20th March, 1920.

An Act to transfer the Jagannath College at Dacca from Trustees to the Governor of Bengal in Council.

WHEREAS by a deed of trust dated the first day of March, 1907 (hereinafter referred to as the principal deed), Kishori Lal Ray Chaudhuri, a zemindar of Dacca, transferred the institution at Dacca known as the Jagannath College, together with certain leasehold land, buildings and moveable property therein particularly referred to and described to Rai Chandra Kumar Dutt Bahadur, Ananda Chandra Ray and himself, and appointed them and himself as trustees, for the purposes *inter alia*, of maintaining and managing the said institution in the manner and upon the terms set out in the principal deed,

AND WHEREAS the said Kishori Lal Ray Chaudhuri died on the third day of June, 1909,

AND WHEREAS by a further deed of trust, dated the twenty fourth day of August, 1909, the said Rai Chandra Kumar Dutt Bahadur and Ananda Chandra Ray, as the then surviving trustees under the principal deed in pursuance of the authority therein contained, appointed Jasoda Lal Ray Chaudhuri, Kumar Ranendra Narayan Chaudhuri and Dinesh Chandra Ray Chaudhuri to be trustees jointly with them the said Rai Chandra Kumar Dutt Bahadur and Ananda Chandra Ray (all of which persons collectively are hereinafter referred to as the trustees, for the purposes aforesaid, and transferred to the trustees, in addition to the said institution and the properties hereinbefore referred to, certain other land therein particularly referred to and described,

AND WHEREAS it is expedient, in connection with the incorporation of the University of Dacca, to put an end to the said trusts and to vest the said institution and properties in the Governor of Bengal in Council;

It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Jagannath College Act, 1920.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the *Gazette of India*, direct

2 (1) From the commencement of this Act, the institution heretofore known as the Jagannath College at Dacca, together with the leasehold and other land described in Parts I and II. of the Schedule and all buildings and other erections standing or being thereon, and all moveable properties, funds, monies, rights and powers which, immediately before the commencement of this Act, were vested in or held by the trustees as such for the purposes of the principal deed, shall be transferred to, and shall be vested in and held by, the Governor of Bengal in Council (hereinafter referred to as the Local Government)

(2) All debts and liabilities of the Jagannath College shall, from the commencement of this Act, be transferred to the Local Government, which shall thereafter discharge and satisfy all such debts and liabilities out of the aforesaid properties.

3 (1) No suit shall be instituted against the Local Government or against any officer of Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving upon the Local Government under this Act, or in respect of the exercise of, or failure to exercise, any power conferred on it by this Act

(2) No suit shall lie against the trustees, or any of them, in respect of anything done or purporting to be done under this Act or for the purpose of giving effect to the provisions of this Act

THE SCHEDULE

(See section 2)

PART I.

A piece of valid *lakheraj* land in mahallah Patuatuly within the city of Dacca and under the jurisdiction of the town police-station, bounded and butted on the south by the public road, now named as Lyall Road, and by the buildings belonging to the late Gouranga Hari De and to the late Ramsunder Basak, which formerly belonged to Mr. J P Wise and to Babu Ruplal Das and to Kunja Behari Gope, which formerly belonged to Durgamony and to the late Govinda Shaha And on the east by the premises belonging to the East Bengal Brahmo Somaj and by the western wall of the premises belonging to Jagat Sundari and by a portion of the western wall of the premises occupied by the Pogose School And on the north by the southern wall of the premises occupied by the said Pogose School and by the building belonging to Babus Ruplal and Raghu Nath Das and others. And on the west by a portion of the lane known as Kaviraja's Lane and by the premises belonging to Babu Kailash Chandra Das, which formerly belonged to the late Broja Chandra Mazumdar and by the premises now belonging to Rajani Kanta Gupta and by the premises belonging to Gourang Govinda Shaha, together with and containing (a) one two-storied building facing towards the south and running from east to west, and (b) one one storied building to the north-east of

the said two-storied building and also facing towards the south and running from east to west which two buildings are now mainly used by the aforesaid school, and (c) a walled enclosure, used as a privy by students lying in the corner between the premises of Babus Ruplal and Raghu Nath and others and the aforesaid western wall of the said Pogose School. All these buildings are standing upon the said land. The premises is numbered now as 59 in the register of the Dacca Municipality.

This property is held subject to the terms of a registered lease dated the 9th day of February, 1887, between Rebat Mohan Basak and others of the one part and Kishori Lal Ray Chaudhuri of the other part,

PART II.

A piece of valid *lakheraj* land in the city of Dacca, within the jurisdiction of the sadar police-station and Sub Registry office, under thak No. 216, being holding No 157 of the Dacca Municipality, bounded on the immediate south by the lands of Rash Behari Basak, Lal Mohan Basak and others and the Brahmo Somaj, on the immediate north by the premises of the Pogose School and the lane leading to the Small Cause Court and Pogose School, on the immediate west by the leasehold house of Ram Charan and Krishna Charan Basak, *re*, by the present premises of the Jagannath College, and on the immediate east by the public road containing open lands with masonry walls and sheds, etc,

ACT NO. XVIII OF 1920

The Dacca University Act, 1920.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 23rd March, 1920.

An Act to establish and incorporate a unitary teaching and residential University at Dacca

WHEREAS it is expedient to establish and incorporate a unitary teaching and residential university at Dacca, It is hereby enacted as follows.—

Short title and commence-
ment

1 (1) This Act may be called the Dacca University Act, 1920

(2) It shall, save as otherwise expressly provided herein, come into force on such date as the Governor-General in Council may, by notification in the Gazette of India, direct.

Definitions.
2 In this Act, and in all Statutes made hereunder, unless there is anything repugnant in the subject or context,—

- (a) "Hall" means a unit of residence for students of the University provided or maintained by the University,
- (b) "Hostel" means a unit of residence for students of the University provided otherwise than by the University, and not maintained by the University but approved and licensed by the University in accordance with the provisions of this Act;
- (c) "Local Government" means the Governor of Bengal in Council,
- (d) "Provost" means the head of a Hall,
- (e) "registered graduates" means graduates registered under the provision of this Act,
- (f) "Statutes," "Ordinances" and "Regulations" mean, respectively, the Statutes, Ordinances and Regulations of the University for the time being in force,
- (g) "teachers" includes Professors, Readers and Lecturers;
- (h) "University" means the University of Dacca, and
- (i) "Warden" means the head of a Hostel.

The University.

3. (1) The first Chancellor and Vice-Chancellor of the University and the first members of the Court, the Executive Council and the Academic Council and all persons who may hereafter become such officers or members, so long as

they continue to hold such office or membership, are hereby constituted a body corporate by the name of the University of Dacca.

(2) The University shall have perpetual succession and a Common Seal, and shall sue and be sued by the said name.

Powers of the University 4 The University shall have the following powers, namely :—

(1) to provide for instruction in such branches of learning as the University may think fit, and to make provision for research and for the advancement and dissemination of knowledge,

(2) to hold examinations and to grant and confer degrees and other academic distinctions to and on persons who—

(a) shall have pursued a course of study in the University, or

(b) are teachers in educational institutions, under conditions laid down in the Ordinances and Regulations, and shall have passed the examinations of the University, under the conditions,

(3) to confer honorary degrees or other distinctions on approved persons in the manner laid down in the Statutes,

(4) to grant such diplomas to and to provide such lectures and instruction for persons, not being members of the University, as the University may determine,

(5) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine.

(6) to institute Professorships, Readerships, Lectureships and any other teaching posts required by the University, and to appoint persons to such Professorships, Readerships, Lectureships and posts,

(7) to institute and award Fellowships, Scholarships, Exhibitions and prizes in accordance with the Statutes and the Regulations,

(8) to institute and maintain Halls for the residence of students of the University, and to approve and license Hostels maintained by other persons for the residence of such students,

(9) to demand and receive such fees as may be prescribed in the Ordinances,

(10) to supervise and control the residence and discipline of students of the University, and to make arrangements for promoting their health, and

(11) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University as a teaching and examining body, and to cultivate and promote arts, science and other branches of learning.

5 The University shall be open to all persons of either sex and of whatever race, creed or class, and it shall not be unlawful for the University to adopt or impose on any person any test whatsoever of religious belief or profession in order to entitle him to be admitted thereto as a teacher or student, or to hold any office therein, or to graduate thereat, or to enjoy or exercise any privilege thereof, except where such test is specially prescribed by the Statutes, or, in respect of any particular benefaction accepted by the University where such test is made a condition thereof, by any testamentary or other instrument creating such benefaction ;

Provided that nothing in this section shall be deemed to prevent religious instruction being given in the manner prescribed by the Ordinances to those not unwilling to receive it by persons (whether teachers of the University or not) approved for that purpose by the Executive Council

6. (1) All recognised teaching in connection with the University Teaching of the Uni- courses shall be conducted by the University, and shall include lecturing, laboratory work and other versity. teaching conducted in the University by the Professors, Readers, Lecturers and other teachers thereof in accordance with any syllabus prescribed by the Regulations.

(2) The authorities responsible for organizing such teaching shall be prescribed by the Statutes.

(3) The courses and curricula shall be prescribed by the Ordinances and the Regulations

(4) Recognised teaching shall be supplemented by tutorial instruction given in the University or, under the control of the University, in Halls and Hostels.

(5) It shall not be lawful for the University to conduct courses or maintain classes for the purpose of preparing students for admission to the University.

The Visitor.

The Visitor,

7 (1) The Governor-General shall be the Visitor of the University

(2) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct of the University, its buildings, laboratories, equipment, and of any institutions associated with the University, and also of the examinations, teaching and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the University. The Visitor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat

(3) The Visitor may address the Chancellor with reference to the results of such inspection or inquiry, and the Chancellor shall communicate to the Executive Council the views of the Visitor and shall, after ascertaining, if he so thinks fit, the opinion of the Executive Council thereon, advise the University upon the action to be taken thereon.

(4) The Executive Council shall report to the Chancellor for communication to the Visitor such action, if any, as it is proposed to take or has been taken upon the results of such inspection or inquiry.

(5) Where the Executive Council does not, within a reasonable time take action to the satisfaction of the Chancellor, the Chancellor may, after considering any explanation furnished or representation made by the Executive Council, issue such directions as he may think fit, and the Executive Council shall comply with such directions.

Officers of the University.

8. The following shall be the officers of the University. —

- (I.) The Chancellor,
- (II.) The Vice Chancellor,
- (III.) The Treasurer,
- (IV.) The Provosts,
- (V.) The Registrar,
- (VI.) The Deans of the Faculties, and
- (VII) Such other officers as may be declared by the Statutes to be officers of the University

9. (1) The Chancellor shall be the Governor of Bengal. He shall by virtue of his office be the head of the University and the President of the Court, and shall when present preside at meetings of the Court and at any Convocation of the University.

(2) The Chancellor shall have such powers as may be conferred on him by this Act or the Statutes.

(3) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

(4) The Chancellor shall, where committees of selection for Professorships and Readerships are constituted in British India, appoint in the manner prescribed by the Statutes one or more members of every such committee.

10. (1) The Vice Chancellor shall be appointed by the Chancellor after consideration of the recommendations of the Executive Council, and shall hold office for such term and subject to such conditions as may be prescribed by the Statutes.

(2) Where any temporary vacancy in the office of the Vice-Chancellor occurs by reason of leave, illness or other cause, the Executive Council shall forthwith report the same to the Chancellor, who shall make such arrangements for carrying on the office of the Vice-Chancellor as he may think fit.

11. (1) The Vice-Chancellor shall be a whole-time officer of the University. He shall be the principal executive and academic officer of the University, and shall, in the absence of the Chancellor, preside at meetings of the Court and at any Convocation of the University. He shall be an *ex officio* member and Chairman of the Executive Council and of the Academic Council, and shall be entitled to be present and to speak at any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of the authority or body concerned.

(2) It shall be the duty of the Vice Chancellor to see that this Act, the Statutes and the Ordinances are faithfully observed, and he shall have all powers necessary for this purpose.

(3) The Vice Chancellor shall have power to convene meetings of the Court, the Executive Council and the Academic Council,

(4) In any emergency which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, the Vice-Chancellor shall take such action as he deems necessary, and shall within seven days thereafter report his action to the officer, authority or other body who or which in the ordinary course would have dealt with the matter.

(5) The Vice Chancellor shall give effect to the orders of the Executive Council regarding the appointment, dismissal and suspension of the officers and teachers of the University, and shall exercise general control over the members of the University. He shall be responsible for the discipline of the University in accordance with this Act, the Statutes and the Ordinances.

(6) The Vice-Chancellor shall exercise such other powers as may be prescribed by the Statutes and the Ordinances.

12. (1) The Treasurer shall be appointed by the Chancellor upon such conditions and for such period, and shall receive such remuneration (if any) from the funds of the University, as the Chancellor shall deem fit

(2) Where any temporary vacancy in the office of the Treasurer occurs by reason of leave, illness or other cause, the Executive Council shall forthwith report the same to the Chancellor, who shall make such arrangements for carrying on the office of the Treasurer as he may think fit

(3) The Treasurer shall exercise general supervision over the funds of the University, and shall advise in regard to its financial policy.

(4) He shall be an *ex officio* member of the Executive Council, and shall, subject to the control of the Executive Council, manage the property and investments of the University. He shall be responsible for the presentation of the annual estimates and statement of accounts.

(5) Subject to the powers of the Executive Council, he shall be responsible for seeing that all monies are expended on the purpose for which they are granted or allotted.

(6) All contracts shall be signed by the Treasurer on behalf of the University.

(7) He shall exercise such other powers as may be prescribed by the Statutes and the Ordinances

13 The Registrar shall act as Secretary of the Court and the Executive Council. He shall maintain a register of registered graduates in accordance with the Statutes, and shall exercise such other powers as may be prescribed by the Statutes and the Ordinances.

14. The powers of officers of the University other than the Chancellor, the Vice Chancellor, the Treasurer and the Registrar, shall be prescribed by the Statutes and the Ordinances.

Authorities of the University.

15 The following shall be the authorities of the University :—

Authorities of the University.

- I The Court,
- II. The Executive Council,
- III. The Academic Council,
- IV. The Faculties, and
- V. Such other authorities as may be declared by the Statutes to be authorities of the University.

The Court, 16 (1) The Court shall consist of the following persons, namely —

Class I — Ex officio members.

- (i) The Chancellor,
- (ii) the Vice Chancellor,
- (iii) the Treasurer,
- (iv) the Registrar,
- (v) the Provosts and Wardens,
- (vi) the Professors and Readers, and
- (vii) such other *ex-officio* members as may be prescribed by the Statutes.

Class II.— Other members

- (viii) Graduates of the University elected by the registered graduates from among their own body,
- (ix) five Lecturers elected by the teachers of the University,
- (x) persons appointed by the Chancellor,
- (xi) persons appointed by the Chief Commissioner of Assam, whose number shall be determined by the Chancellor,
- (xii) ten persons appointed by associations or other bodies approved in this behalf by the Chancellor, and
- (xiii) persons (if any) appointed by the Chancellor to be life-members on the ground that they have rendered great services to education or have made substantial donations to the University

(2) The number of members to be elected or appointed under clauses (viii) and (x) and the tenure of office of members to be elected or appointed under clauses (viii), (v), (xi) and (xii) of sub section (1) shall be prescribed by the Statutes, and the manner of voting for the election of members to be elected under clauses (viii) and (ix) of sub section (1) shall be prescribed by the Ordinances

Meetings of the Court. 17 (1) The Court shall, on a date to be fixed by the Vice-Chancellor, meet once a year at a meeting to be called the annual meeting of the Court.

(2) The Vice-Chancellor may, whenever he thinks fit, and shall, upon a requisition in writing signed by not less than thirty members of the Court, convene a special meeting of the Court

Powers and duties of the Court. 18 Subject to the provisions of this Act, the Court shall exercise the following powers and perform the following duties, namely :—

(a) of making Statutes, and of amending or repealing the same,
 (b) of considering and cancelling Ordinances and
 (c) of considering and passing resolutions on the annual report, the annual accounts and the financial estimates, and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes

19 The Executive Council shall be the executive body of the University, and its constitution and the terms of The Executive Council office of its members, other than *ex officio* members, shall be prescribed by the Statutes

Powers and duties of the
 Executive Council.

20. The Executive Council—

- (a) shall hold, control and administer the property and funds of the University, and for these purposes shall appoint from among its own members a Finance Committee to advise it on matters of finance. The Treasurer shall be Chairman of the Finance Committee, and at least one member of the Committee shall be a member elected to the Executive Council by the Court,
- (b) shall direct the form, custody and use of the Common Seal of the University,
- (c) shall, subject to the powers conferred by this Act on the Vice-Chancellor, regulate and determine all matters concerning the University in accordance with this Act, the Statutes and the Ordinances

Provided that no action shall be taken by the Executive Council in respect of the fees paid to examiners and the emoluments of teachers otherwise than on the recommendation of the Academic Council,

- (d) shall lay before the Local Government annually a full statement of all the requests received by it for financial assistance from any institution associated with the University, together with its views thereon,
- (e) shall administer any funds placed at the disposal of the University for specific purposes,
- (f) save as atherwise provided by this Act or the Statutes, shall appoint the officers (other than the Chancellor, the Vice-Chancellor and the Treasurer), teachers, clerical staff and servants of the University, and shall define their duties and the conditions of their service, and shall provide for the filling of temporary vacancies in their posts,
- (g) shall have power to accept transfers of any moveable or immoveable property on behalf of the University;
- (h) shall publish the results of the University examinations,
- (i) shall exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act or the Statutes, and

(7) shall exercise all other powers of the University not otherwise provided for by this Act or the Statutes.

21. The Academic Council shall be the academic body of the University, and shall, subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination within the University, and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes. It shall have the right to advise the Executive Council on all academic matters. The constitution of the Academic Council and the term of office of its members, other than *ex officio* members, shall be prescribed by the Statutes.

22. (1) The University shall include the Faculties of Arts, Science, Law, Medicine and Agriculture, and such other Faculties. Each Faculty shall, subject to the Control of the Academic Council, have charge of the teaching and the courses of study and the research work in such subjects as may be assigned to such Faculty by the Ordinances.

(2) The constitution and powers of the Faculties shall be prescribed by the Statutes.

(3) There shall be a Dean of each Faculty, who shall be elected in the manner laid down in sub-section (6), and shall be responsible for the due observance of the Statutes, Ordinances and Regulations relating to the Faculty.

(4) Each Faculty shall comprise such Departments of teaching as may be prescribed by the Ordinances. The head of every such Department shall be the Professor of the Department or, if there is no Professor the Reader. If there is more than one Professor or more than one Reader of a Department, as the case may be, the Vice Chancellor shall appoint such Professor or Reader to be head of the Department as he thinks fit. The head of the Department shall be responsible to the Dean for the organisation of the teaching in that Department.

(5) The Ordinances shall provide for Departments of Oriental Studies (including Departments of Islamic and Sanskrit Studies) in the Faculty of Arts in which the same degrees shall be conferred as in the other Departments of that Faculty.

(6) The Dean of a Faculty shall be elected by the Faculty from among the heads of Departments of the Faculty. The Dean shall receive in respect of his duties as Dean such additional remuneration (if any) as shall be fixed by the Executive Council and shall hold office as Dean for such term as may be prescribed by the Statutes.

23. The constitution, powers and duties of such other authorities as may be declared by the Statutes to be authorities of the University shall be provided for in the manner prescribed by the Statutes.

University Boards.

University Boards. 24. The University shall include a Residence Health and Discipline Board and such other Boards as may be prescribed by this Statutes

Constitution, etc., of 25. The constitution powers and duties of Boards to be prescribed by the Residence Health and Discipline Board and Ordinances of all other Boards of the University shall be prescribed by the Ordinances.

Statutes, Ordinances and Regulations.

Statutes 26. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely —

- (a) the conferment of honorary degrees ,
- (b) the institution of Fellowships, Scholarships, Exhibitions and Prizes ,
- (c) the term of office and conditions of service of the Vice-Chancellor ,
- (d) the designations and powers of the officers of the University ;
- (e) the constitution, powers and duties of the Court, the Executive Council, the Academic Council and the Faculties ,
- (f) the institution and maintenance of Halls and the management of Hostels ,
- (g) the mode of appointment of the Professors and Readers of the University ;
- (h) the constitution of a pension or provident fund for the benefit of the officers, teachers, clerical staff and servants of the University ;
- (i) the maintenance of a register of registered graduates ; and
- (j) all matters which by this Act are to be or may be prescribed by the Statutes.

Statutes how made 27. (1) The first Statutes shall be those set out in the Schedule.

(2) The Statutes may be amended repealed or added to by Statutes made by the Court in the manner hereinafter appearing.

(3) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court. Such draft shall be considered by the Court at its next meeting. The Court may approve such draft and pass the Statute or may reject it or return it to the Executive Council for re-consideration either in whole or in part together with any amendments which the Court may suggest.

(4) Where any Statute has been passed or a draft of a Statute has been rejected by the Court, it shall be submitted to the Chancellor, who may refer the Statute or draft back to the Court for further consideration or in the case of a Statute passed by the Court assent thereto or withhold his assent. A Statute passed by the Court shall have no validity until it has been assented to by the Chancellor

(5) The Executive Council shall not propose the draft of any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an

opinion upon the proposal. Any opinion so expressed shall be in writing and shall be considered by the Court, and shall be submitted to the Chancellor.

(6) Notwithstanding anything contained in this section no Statute shall be made affecting the proportion or method of Muhammadan representation on the Court the Executive Council or the Academic Council save with the previous sanction of the Governor-General in Council.

Ordinances. 28. Subject to the provisions of this Act and the Statutes the Ordinances may provide for all or any of the following matters, namely:—

- (a) the courses of study to be laid down for all degrees and diplomas of the University,
- (b) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the University, and shall be eligible for degrees and diplomas;
- (c) the admission of students to the University;
- (d) the conditions of residence of the students of the University, the levying of fees for residence in Halls, and the licensing of Hostels,
- (e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University,
- (f) the giving of religious instruction,
- (g) the formation of Departments of teaching in the Faculties;
- (h) the constitution, powers and duties of the Boards of the University,
- (i) the conduct of examinations, and
- (j) all matters which by this Act or the Statutes are to be or may be provided for by the Ordinances

Ordinances how made 29. (1) Save as otherwise provided in this section, ordinances shall be made by the Executive Council:

Provided that no Ordinance shall be made—

- (a) affecting the admission of students, or prescribing examinations to be recognised as equivalent to the university examinations or the further qualifications mentioned in sub-section (2) of section 34 for admission to the degree courses of the University, unless a draft of the same has been proposed by the Academic Council, or
- (b) affecting the conduct or standard of examinations or any course of study, except in accordance with a proposal of the Faculty or Faculties concerned, and unless a draft of such Ordinance has been proposed by the Academic Council, or
- (c) affecting the conditions of residence of students, except after consultation with the Residence, Health and Discipline Board.

2) The Executive Council shall not have power to amend any draft proposed by the Academic Council under sub-section (1), but may reject

it or return it to the Academic Council for reconsideration, either in whole or in part, together with any amendments which the Executive Council may suggest

(3) All Ordinance made by the Executive Council shall be submitted as soon as may be, to the Chancellor and the Court and, shall be considered by the Court at its next meeting. The Court shall have power, by a resolution passed by a majority of not less than two-thirds of the members voting, to cancel any Ordinance made by Executive Council, and such Ordinance shall, from the date of such resolution, be void.

(4) The Chancellor may, at any time after any Ordinance has been considered by the Court, signify to the Executive Council his disallowance of such Ordinance, and, from the date of receipt by the Executive Council of intimation of such disallowance, such Ordinance shall become void

(5) The Chancellor may direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance. An order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order, or on the expiration of fifteen days from the date of consideration of the Ordinance by the Court, whichever period expires later.

(6) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Chancellor, who may, if he approves the draft, make the Ordinance. An Ordinance made under this sub section shall cease to have effect on the expiry of six months from the making thereof.

30. (1) The authorities and the Boards of the University may make Regulations, Regulations consistent with this Act the Statutes and the Ordinances—

- (a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum,
- (b) providing for all matters which by this Act the Statutes or the Ordinances are to be prescribed by Regulations, and
- (c) providing for all other matters solely concerning such authorities and Boards and not provided for by this Act, the Statutes and the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings

(3) The Executive Council may direct the amendment in such manner as it may specify of any Regulation made under this section or the annulment of any Regulation made under sub-section (1):

Provided that any authority or Board of the University which is dissatisfied with any such direction may appeal to the Chancellor, whose decision in the matter shall be final

Residence, Halls, and Hostels.

31. Every student of the University shall reside in a Hall or Hostel or under such conditions as may be prescribed by the Statutes and the Ordinances.

Halls.

32. The Halls of the University shall be—

- (a) the Dacca Hall,
- (b) the Muhammadan Hall,
- (c) the Jagannath Hall, and
- (d) such other Halls as may be prescribed by the Statutes.

33. (1) The Hostels shall be such as may hereafter be approved and licensed by the Executive Council on such general or special conditions as may be prescribed by the Ordinances.

(2) The Wardens and superintending staff of Hostels shall be appointed in the manner prescribed by the Statutes.

(3) The conditions of residence in Hostels shall be prescribed by the Ordinances and every Hostel shall be subject to inspection by any member of the Residence, health and Discipline Board authorised in this behalf by the Board and by any officer of the University authorised in this behalf by the Executive Council.

(4) The Executive Council shall have power to suspend or withdraw the license of any Hostel which is not conducted in accordance with the conditions prescribed by the Ordinances.

Admission and Examinations.

34. (1) Admission of students to the University shall be made by an admission committee (including at least one Provost and one Warden) appointed for that purpose by the Academic Council.

(2) Students shall not be eligible for admission to a course of study for a degree unless they have passed the Intermediate Examination of an Indian University incorporated by any law for the time being in force, or an examination recognised in accordance with the provisions of the section as equivalent thereto, and possess such further qualifications as may be prescribed by the Ordinances.

(3) The conditions under which students may be admitted to the diploma courses of the University shall be prescribed by the Ordinances.

(4) The University shall not, save with the previous sanction of the Governor-General in Council, recognise (for the purposes of admission to a course of study for a degree), as equivalent to its own degrees, any degree conferred by any other University, or, as equivalent to the Intermediate Examination of an Indian University, any examination conducted by any other authority.

35. (1) All arrangements for the conduct of examinations shall be made, and all examiners shall be appointed by the Academic Council in such manner as may be prescribed by this Act and the Ordinances.

(2) If during the course of an examination any examiner is for any cause incapable of acting as such, the Vice-Chancellor shall appoint an examiner to fill the vacancy.

(3) At least one examiner who is not a members of the University shall be appointed for each subject included in a Department of teaching

and forming part of the course which is required for a University degree.

(4) The Academic Council shall appoint examination committees, consisting of members of its own body or of other persons or of both, as it thinks fit, to moderate examination questions, to prepare the results of the examinations and to report such results to the Executive Council for publication.

Annual Report and Accounts.

36 The annual report of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Court on or before such date as may be prescribed by the Statutes, and shall be considered by the Court at its annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action thereon as it thinks fit

37. (1) The annual accounts and balance-sheet of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Local Government for the purposes of audit

(2) The accounts when audited shall be published by the Executive Council in the Calcutta Gazette, and copies thereof shall, together with copies of the audit report, if any, be submitted to the Court, to the Local Government and to the Governor General in Council. The Executive Council shall also submit to the Court, on or before such date as may be prescribed by the Statutes, a statement of the financial estimates for the ensuing year.

(3) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting, and the Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action thereon as it thinks fit

Supplementary Provisions.

38. The Chancellor shall, with the concurrence of not less than two-thirds of the members of the Executive Council for the time being in India, have power to remove the name of any person from the register of registered graduates

39 If any question arises whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Chancellor, whose decision thereon shall be final.

40 (1) An appeal may be made by petition to the Chancellor against the order of any officer or authority of the University affecting any class of persons in the University. The Chancellor shall send a copy of any such petition to the officer or authority concerned, and shall give such officer or authority an opportunity to show cause why the appeal should not be entertained.

(2) The Chancellor may reject any such appeal, or may, if he thinks fit, appoint a commission of persons, not being officers of the

University or members of any authority thereof, to inquire into the matter and report to him thereon. On receipt of the commission's report, the Chancellor shall send a copy thereof to the Executive Council. The Executive Council shall take such report into consideration, and shall within three months of the receipt thereof, pass a resolution thereon which shall be communicated to the Chancellor.

(3) A commission appointed under sub-section (2) may require any officer or authority of the University to furnish it with any papers or information which are, in the opinion of the commission, relevant to the matter under inquiry, and such officer or authority shall be bound to comply with such requisition.

41. Where any authority of the University is given power by this Act or the Statutes to appoint committees, such committees shall, unless otherwise provided, consist of members of the authority concerned and of such other persons (if any) as the authority in each case may think fit.

42. All casual vacancies among the members (other than *ex-officio* members) of any authority or other body of the University shall be filled as soon as conveniently may be by the person or body who appointed, elected or co-opted the member whose place has become vacant, and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

43. No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

44. (1) Every salaried officer and teacher of the University shall be appointed on a written contract. The contract shall be lodged with the Registrar of the University, and a copy thereof shall be furnished to the officer or teacher concerned.

(2) Any member of the public services in India whom it is proposed to appoint to a post in the University shall, subject to the approval of such appointment by the Government, have the option—

(i) of having his services lent to the University for a specified period and remaining liable to recall to Government service at the discretion of the Government at the end of that period; or

(ii) of resigning Government service on entering the service of the University.

45. Any dispute arising out of a contract between the University and any officer or teacher of the University shall, on the request of the officer or teacher concerned, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned, and an umpire appointed by the Chancellor. The decision of the Tribunal shall be final, and no suit shall lie in any Civil

Court in respect of the matters decided by the Tribunal "Every such request shall be deemed to be a submission to Arbitration upon the terms of this section within the meaning of the Arbitration Act, 1899,* and all the provisions of that Act, with the exception of section 2, thereof, shall apply accordingly" †

46 (1) The University shall constitute for the benefit of its officers, teachers, clerical staff and servants, "such pensions and provident funds as it may deem fit" ‡
 Pension or provident fund as may be prescribed by the Statutes.

(2) Where such a pension or provident fund has been so constituted, the Governor-General in Council may, notwithstanding anything contained in the Provident Funds Act, 1897,‡ by notification in the *Gazette of India*, declare that the provisions of the said Act shall apply to such fund as if it were a Government Provident Fund

47 Save as otherwise provided in this Act, the powers of the Territorial exercise of University conferred by or under this Act shall not extend beyond a radius of five miles from the Convocation Hall of the University. Notwithstanding anything in any other law for the time being in force, no educational institution beyond that limit shall be associated with or admitted to any privileges of the University, and no educational institution within that limit shall be associated in any way with or be admitted to any privileges of any other University incorporated by law in British India, and any such privileges granted by any such other University to any educational institution within that limit prior to the commencement of this Act shall be deemed to be withdrawn on the commencement of this Act :

Provided that nothing in this section shall apply to any agricultural or other technical institution established or maintained in connection with the University with the sanction of the Governor-General in Council :

Provided, further, that it shall be lawful for any Faculty, other than the Faculties of Arts and Science, to assemble at Calcutta whenever, in the opinion of the Vice-Chancellor, such a course is necessary

Transitory Provisions.

48 Notwithstanding anything contained in this Act or the Ordinances, any student of the Dacca College, the Dacca Law College, the Dacca Training College, or the Jagannath College at Dacca who, immediately prior to the commencement of this Act, was studying for any examination of the Calcutta University higher than the Intermediate Examination shall be permitted to complete his course in preparation therefor, and the University shall provide for such students instruction and examinations in accordance with the Prospectus of Studies of the Calcutta University.

* Act IX. of 1899

† The words within quotations have been substituted by Act 31 of 1920.

‡ Act IX. of 1897.

49. The first Vice-Chancellor may be appointed at any time after the passing of this Act. Such appointment shall, notwithstanding anything contained in sub-section (1) of section 10, be made by the Governor-General in Council for such term and on such conditions as he thinks fit.

50. (1) At any time after the passing of this Act and until such time as the authorities of the University shall have been duly constituted—

- (a) the Treasurer may be appointed by the Governor of Bengal ;
- (b) any other officers of the University may be appointed by the Vice Chancellor with the previous sanction of the Governor of Bengal ;
- (c) teachers of the University shall be appointed by the Governor of Bengal after considering the recommendations of an Advisory Committee consisting of the Vice-Chancellor, the Director of Public Instruction, Bengal, and such other person or persons, if any, as the Governor of Bengal thinks fit to associate with them.

(2) Any appointment made under sub-section (1) shall be for such period and on such conditions as the appointing authority thinks fit

Provided that no such appointment shall be made until financial provision has been made therefor by the Local Government or otherwise

51. At any time after the passing of this Act the Vice-Chancellor may, with the previous approval of the Chancellor and subject to the provision of funds by the Local Government or otherwise, take such action, consistent so far as he may be with the provisions of this Act and the Statutes, as he may think necessary for the purpose of bringing the University into being, and for that purpose may exercise any power which by this Act or the Statutes is to be conferred on any officer or authority of the University.

THE SCHEDULE.

THE FIRST STATUTES OF THE UNIVERSITY.

[See section 27 (1).]

Definitions, 1. In these Statutes, unless there is anything repugnant in the subject or context—

- (a) "the Act" means the Dacca University Act, 1920, and "section" means a section of the Act, and
- (b) "officers," "authorities," "Professors," "Readers," "Lecturers," "teachers," "clerical staff," "servants" and "registered graduates" mean, respectively, officers, authorities, professors, Readers, Lecturers, teachers, clerical staff, servants and registered graduates of the University.

2. (1) In addition to the officers mentioned in sub-section (1) of Constitution of the Court, of section 16, the following persons shall be *ex officio* members of the Court, namely :—

- (i) the members of the Executive Council of the Governor of Bengal
- (ii) the Vice-Chancellor of the University of Calcutta ;
- (iii) the Commissioner, the Collector and the District and Sessions Judge of Dacca ,
- (iv) the Director of Public Instruction in Bengal or the Secretary (if any) to the Local Government in the Department of Education, and the Director of Public Instruction in Assam ;
- (v) the Director of Agriculture for Bengal ;
- (vi) the Director of Industries for Bengal ,
- (vii) the Civil Surgeon of Dacca ,
- (viii) the Superintending Engineer, Eastern Circle, Bengal ;
- (ix) the Assistant Director of Public Instruction for Muhammadan education in Bengal ,
- (x) the Chairman of the Dacca Municipality and of the Dacca District Board ,
- (xi) the Inspector of Schools of the Dacca Division ,
- (xii) the Inspectress of Girls Schools for the Dacca Circle ,
- (xiii) the Proctor of the University ,
- (xiv) the Librarian of the University and
- (xv) the Principals of the Dacca Medical School, the Dacca Madrassah, Calcutta Madrassah, the Chittagong Madrassah, the Sylhet Madrasah, and the Eden High School, the President of the Saraswat Samaj and the Principals of all educational institutions in the Dacca Division which prepare students for admission to the degree courses of University.

(2) The number of graduates to be elected as members of the Court by the registered graduates from among their own body shall be thirty, of whom fifteen shall be Muhammadan graduates elected by the Muhammadan registered graduates, and fifteen shall be non Muhammadan graduates elected by the non-Muhammadan registered graduates

(3) The number of persons to be appointed by the Chancellor under clause (x) of sub section (1) of section 16 shall be forty :

Provided that the Chancellor shall, in making such appointments, secure that, as far as possible, fifty per cent. of the non-European members of the Court shall be Muhammadans.

(4) Save as otherwise provided, members of the Court other than *ex officio* members shall hold office for a period of three years :

Provided that members elected by the Academic Council shall hold office so long only within the said period as they continue to be teachers.

Constitution of the Executive Council

3. (1) The members of the Executive Council, in addition to the Vice Chancellor and the Treasurer, shall be—

Class I—Ex officio members.

- (i) The Commissioner of the Dacca Division ,
- (ii) the Deans of the Faculties ,
- (iii) the Provosts of the Dacca, the Muhammadan and the Jagannath Halls.

Class II... Other members.

- (iv) Two non-Muhammadan members of the Court elected by the non-Muhammadan members thereof at its annual meeting .
 - (v) two Muhammadan members of the Court elected by the Muhammadan members thereof at its annual meeting , and
 - (vi) four persons, of whom at least two shall be teachers appointed by the Chancellor . Provided that so long as one half of the non European members of the Executive Council, as constituted under this sub-clause but excluding the Vice-Chancellor and the Treasurer, are not Muhammadans, any person so appointed shall be a Muhammadan.
- (2) The Executive Council as constituted under sub-clause (1) shall co-opt as member one Warden
- (3) Members other than *ex officio* members shall hold office for a period of three years

Provided that members elected by any body of persons from among their own number shall hold office so long only within the said period as they continue to be members of the body which elected them.

4. Subject to the provisions of the Act, the Executive Council shall have the following powers, namely :—

- (a) to institute, at its discretion, such Professorships, Readerships, Lectureships, or other teaching posts as may be proposed by the Academic Council ,
- (b) to abolish or suspend, after report from the Academic Council thereon, any Professorship, Readership, Lectureship, or other teaching post ,
- (c) to appoint in accordance with the Statutes, teachers, officers, clerical staff and servants ,
- (d) to delegate, subject to such conditions as may be prescribed by Regulations made by the Executive Council, its power to appoint teachers, officers, clerical staff and servants to such person or authority as the Executive Council may determine ,
- (e) to manage and regulate the finances, accounts, investment, property and all administrative affairs whatsoever of the University, and for that purpose, to appoint such agents as it may think fit ,
- (f) to accept bequests, donations and transfers of property to the University .

Provided that all such bequests, donations and transfers shall be reported to the Court at its next meeting :

- (g) to provide the buildings, premises, furniture, apparatus, equipment and other means needed for carrying on the work of the University ,
- (4) after report from the Finance Committee to enter into, vary, carry out and cancel contracts on behalf of the University , and
- (2) to invest any monies belonging to the University, including any unapplied income, in any of the securities described in section 20 of the Indian Trusts Act, 1882, or in the immoveable property in India with the like power of varying such investments , or to place on fixed deposit in any bank approved in this behalf by the Local Government any portion of such monies not required for immediate expenditure.

The Academic Council. 5 (1) The members of the Academic Council, in addition to the Vice-Chancellor, shall be—

Class I.—Ex-officio members.

- (i) The Deans of the Faculties ;
- (ii) the Librarian of the University ;
- (iii) the Professors , and
- iv) the Provosts.

Class II.—Other members

- (v) One Warden nominated by the Vice-Chancellor , and
- (vi) persons, if any not exceeding three in number and not being teachers, appointed by the Chancellor on account of their possessing expert knowledge in such subjects of study as may be selected by the Academic Council as constituted under heads (i) to (v).

(2) The Academic Council as constituted under sub-clause (1) shall co-opt as members three Readers and two Lecturers.

(3) The Academic Council as constituted under sub-clauses (1) and (2) shall co-opt as members teachers not exceeding one-tenth of its number as so constituted.

Provided that so long as one-fourth of the total members, including teachers co-opted under this sub-clause, are not Muhammandans, any teacher so co-opted shall be a Muhammadan

(4) Members other than *ex-officio* members shall hold office for a period of three years :

Provided that Readers, Lectures or teachers co-opted as such shall hold office so long only within the said period as they continue to be Readers, Lecturers or teachers, respectively.

6. The Academic Council shall have the following powers, namely :—

- (a) to make proposals to the Executive Council for the institution

of Professorships, Readerships, Lectureships or other teaching posts, and in regard to the duties and emoluments thereof,

- (b) to make Regulations for and to award in accordance with such Regulations, Fellowships, Scholarships, Exhibitions, bursaries, medals and other rewards ;
- (c) to appoint examiners after report from the Faculties concerned ,
- (d) to control and manage the University Library or Libraries, to frame Regulations regarding their use, and to appoint a Library Committee under the general control of the Academic Council to manage the affairs of the Library ,
- (e) to formulate, modify or revise, subject to the control of the Executive Council, schemes for the constitution or re-constitution of Faculties and for the assignment of subjects to such Faculties ,
- (f) to assign teachers to the Faculties , and
- (g) to promote research within the University, and to require reports on such research from the persons employed thereon.

The Faculties.

7 (1) Each Faculty shall consist of—

- (i) the Professors of the Departments comprised in the Faculty ,
- (ii) such teachers of subjects assigned to the Faculty as may be appointed to the Faculty by the Academic Council ,
- (iii) such teachers of subjects not assigned to the Faculty but having, in the opinion of the Academic Council, an important bearing on those subjects as may be appointed to the Faculty by the Academic Council . and
- (iv) such other persons as may be appointed to the Faculty by the Academic Council on account of their possessing expert knowledge in a subject or subjects assigned to the Faculty

(2) The total number of members of each Faculty shall not exceed in the case of the Faculties of Arts and Science thirty, and in the case of any other Faculty fifteen, except with the sanction of the Chancellor given on the request of the Academic Council

8. Subject to the provisions of the Act,
Powers of the Faculties. each Faculty shall have the following powers,
namely :—

- (a) to constitute Committees of Courses and Studies ;
- (b) to recommend to the Academic Council, after consulting the Committees of Courses and Studies, the names of examiners in subjects assigned to the Faculty.

9. There shall be a Board of Co ordination composed of the Vice-Chancellor, who shall be Chairman thereof, the Board of Co ordination, Deans of the Faculties and the Registrar, to organise the teaching of the University, and in particular to co ordinate the work and time tables of the various Faculties, and to assign lecture-rooms, laboratories, and other rooms to the Faculties.

10 (1) The Dean of each Faculty shall be the executive officer of the Faculty, and shall preside at its meetings.
The Dean He shall hold office for three years

(2) He shall issue the lecture lists the University in the Departments comprised in the Faculty, and shall be responsible for the conduct of teaching therein,

(3) He shall have the right to be present and to speak at any meeting of any committee of the Faculty, but not to vote unless he is a member of the committee

11 (1) The appointment of the Warden and the superintending staff of a Hostel shall be subject to the approval of the Executive Council
Hostels

(2) Every student not residing in a Hall or Hostel shall be attached to a Hall or Hostel for tutorial help and disciplinary supervision, and for such other purposes as may be prescribed by the Ordinances.

12. The Court may, on the recommendation of the Executive Council, by a resolution passed with the concurrence of not less than two-thirds of the members voting, withdraw any degree or diploma conferred by the University.
Withdrawal of degrees and diplomas

13. (1) All proposals for the conferment of honorary degrees shall be made by the Academic Council to the Executive Council, and shall require the assent of the Court before submission to the Chancellor for confirmation,
Honorary degrees

Provided that in cases of urgency the Chancellor may act on the recommendation of the Executive Council only.

(2) Any honorary degree conferred by the University may, with the previous approval of the Court and the sanction of the Chancellor, be withdrawn by the Executive Council

14. The following persons shall, on payment of such fees as may be prescribed by the Statutes, be entitled to have their names enrolled in the register of registered graduates and to enjoy all the privileges of registration, namely,—
Registered graduates.

(a) for a period of five years from the commencement of the Act all graduates of three years' standing or upwards of any other Indian University incorporated by any law for the time being in force, who are not for the time being registered as graduates in any such other University, and who—

(1) have studied at the Dacca College, the Jagannath College at Dacca, or the Dacca Law College for at least two years, or at the Dacca Training College for at least one year, and ordinarily reside in the Dacca or Chittagong Divisions of the Bengal Presidency; or

(2) have graduated at any time from any of the said Colleges, and apply to the University to be granted *ad eundem* degrees of the University and

(b) for a period of seven years from the commencement of the Act all Muhammadan graduates of three years' standing or up-

wards of any Indian University incorporated by any law for the time being in force, who are not for the time being registered as graduates of any such other University, and who ordinarily reside in the Dacca or Chittagong Divisions of the Bengal Presidency, and

- (c) all graduates of the University of three years' standing upwards

Officers 15 There shall be the following officers namely —

- (i) a Proctor for the maintenance of the general discipline of the University, to whom the Vice-Chancellor may delegate such of his disciplinary powers as he may think fit, and
(ii) a Librarian for the University Library.

16 (1) Subject to the provisions of clause (c) of sub-section (1) of section 50 and of clause 17, appointments to Professorships and Readerships shall be made on the nomination of committees of selection constituted for the purposes as follows, namely :—

Committees of selection in India.

- (i) Vice Chancellor,
(ii) one member of the Executive Council selected by the Executive Council.
(iii) two members of the Academic Council selected by the Academic Council on the ground of their special knowledge of, or interest in, the subject or subjects with which the Professor or Reader, as the case may be, will be concerned.
(iv) an officer of the Local Government appointed by the Local Government, and
(v) three persons (two of whom shall not be officers or teachers) appointed by the Chancellor.

Provided that, should a committee so constituted not include both a Hindu and a Muhammadan member, the Chancellor shall nominate an additional Hindu or Muhammadan member, or both, as the case may be

(2) Committees of selection appointed under sub-clause (1) shall report to the Executive Council which shall, if it accepts the nomination of the committee, make the appointment to the post accordingly. If the Executive Council does not accept the nomination of the committee, it shall refer the case to the Chancellor, who shall make such appointment as he thinks fit.

Committees of selection in the United Kingdom. 17. (1) Of the Professorships not less than one-third shall be filled in one or other of the following manners, namely :—

- (a) on the nomination of the committees of selection constituted for the purpose in the United Kingdom, or
(b) if, in the opinion of the Chancellor, exceptional circumstances justify such a course, by appointment by the Secretary of State for India,

(2) The committees of selection referred to in sub-clause (1) (a) shall be constituted as follows, namely :—

(i) two members resident in the United Kingdom appointed by the Academic Council,

(ii) two members resident in the United Kingdom appointed by the Secretary of State for India, one of whom shall be an Indian Member of the Council of India as constituted under the Government of India Act,* and

(iii) one member appointed by the Chancellor.

(3) The Executive Council shall consider the report of a committee of selection constituted under sub-clause (2), and shall, if it accepts the nomination of the committee, make the appointment to the post accordingly. If the Executive Council does not accept the nomination of the committee, it shall refer the case to the Chancellor, who may either appoint the person nominated by the committee, or refer the case to the Secretary of State for India, and, in such case, the Secretary of State for India shall make such appointment as he thinks fit.

(4) Nothing in this clause shall apply to appointments made by the Chancellor under clause (c) of sub-section (1) of section 50

18. Appointments to teaching posts other than Professorships and Readerships shall, subject to the provisions of the Act and the Statutes, be made in the manner prescribed by the Ordinances.

Appointments of Lecturers
and other teachers

* 5. & 6 Geo 5, Ch. 61.

ACT NO. XX. OF 1920.

The Indian Army (Suspension of Sentences) Act 1920

PASSED BY THE GOVERNOR GENERAL IN COUNCIL

Received the assent of the Governor-General on the 23rd March, 1920.

An Act to consolidate and amend the Law relating to the suspension of sentences passed by Court-martial under the Indian Army Act, 1911.

WHEREAS it is expedient to consolidate and amend the law relating to the suspension of sentences of imprisonment or transportation passed by Court-martial on persons subject to the Indian Army Act, 1911,* It is hereby enacted as follows :—

Short title and construction. 1. This Act may be called the Indian Army (Suspension of Sentences) Act, 1920 and shall be construed as one with the principal Act

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "committed" means committed to prison or to confinement in military custody ;
- (b) "competent military authority" means a superior military authority, or any general or other officer not below the rank of field officer duly authorised by a superior military authority ;
- (c) "imprisonment" includes confinement in military custody ,
- (d) "principal Act" means the Indian Army Act, 1911,*
- (e) "sentence" means a sentence of transportation or imprisonment, whether originally passed on a person subject to the principal Act, or passed by way of reduction or commutation ; and "sentenced" has the corresponding meaning , and
- (f) "superior military authority" means the Commander-in-Chief in India or any officer empowered under the principal Act to convene general Courts-martial or summary general Courts-martial

3. (1) Where a person subject to the principal Act is sentenced, the confirming officer when confirming the sentence, or, in the case of a sentence which does not require confirmation, the officer holding the trial or the President of the Court martial when passing sentence may, notwithstanding anything in the principal Act, direct that such person be not committed until the orders of a superior military authority have been obtained.

* Act VIII. of 1911.

(2) A superior military authority may, in the case of any such offender so sentenced,—

(a) direct that, until his orders have been obtained, such offender shall not be committed, and

(b) suspend the sentence whether or not the offender has already been committed

(3) Where, in accordance with any order passed under sub-section (2), a sentence is suspended, the offender shall, whether he has been committed or not, forthwith be released.

Calculation of periods of sentence under suspension, 4. Any period during which a sentence is under suspension shall be reckoned as part of the term of such sentence.

Power to set aside suspension or order remission, 5. A superior military authority may, at any time whilst a sentence is suspended under this Act, order—

(a) that the offender be committed to undergo the unexpired portion of the sentence, or

(b) that the sentence be remitted

6. Where a sentence has been suspended under this Act, the case may at any time, and shall at intervals of not more than four months, be reconsidered by a competent military authority, and if, on any such reconsideration, it appears to such authority that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall, if he is not also a superior military authority, refer the case to a superior military authority.

Periodical review of suspended sentences. Procedure on further sentence of offender whose sentence is suspended 7 Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(a) if the further sentence is also suspended under this Act, the two sentences shall run concurrently ;

(b) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed on the unexpired portion of the previous sentences, but both sentences shall run concurrently, and

(c) if the further sentence is for a period of three months or less and is not suspended under this Act, the offender shall be committed on that sentence only, and the previous sentence shall (subject to any order which may be passed under section 5 or section 6) continue to be suspended

8. The powers conferred by this Act shall be in addition to and not in derogation of, any powers as to the mitigation remission or commutation of sentences conferred by the principal Act, and a superior military authority shall, as regards persons subject to that Act, be an

Saving of sections 112 Act VIII of 1911.

authority having power to mitigate, remit or commute sentences under section 112 of that Act.

9 Where in addition to any other sentence the punishment of dismissal has been awarded by a Court-martial, and such other sentence is suspended under this Act, then, notwithstanding anything contained in the principal Act or in any rules made there-under, such dismissal shall not take effect until so ordered by a superior military authority :

Provided that, if a sentence is remitted under this Act, the punishment of dismissal shall also be remitted.

10. The Indian Army (Suspension of Sentences) Act, 1917,* and the Indian Army (Suspension of Sentences) Amendment Act, 1918,† are hereby repealed, and all sentences which are suspended thereunder at the commencement of this Act shall be deemed to have been suspended under this Act, and the provisions of this Act shall apply accordingly :

Provided that all such sentences shall, on the expiry of six months from the commencement of this Act, if still under suspension, be deemed to be remitted.

* Act IV. of 1917.

† Act XVIII. of 1918.

ACT NO. XXII. OF 1920.

The Lepers (Amendment) Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 31st day of August, 1920.

An Act further to amend the Lepers Act, 1898.

WHEREAS it is expedient further to amend the Lepers Act, 1898,*
It is hereby enacted as follows :—

Short title. 1. This Act may be called the Lepers (Amendment) Act, 1920

2 In sub-section (4) of section 1 of the Lepers Act, 1898* (hereinafter referred to as the said Act), the words
Amendment of section 1, Act III. of 1898 "and may in like manner amend or cancel any such notification" shall be omitted.

3. In clause (1) of section 2 of the said Act the words "in whom the process of ulceration has commenced" shall be omitted.
Amendment of section 2, Act III. of 1898.

4 For section 3 of the said Act, the following section shall be substituted, namely :—
Substitution of new section for section 3. Act, III of 1898.

"3. The Local Government may, by notification in the official Gazette, appoint any place to be a leper asylum if it is satisfied that adequate arrangements have been made or will be made for the accommodation and medical treatment of lepers therein, and may, by a like notification, specify the local areas from which lepers may be sent to such asylum".
Appointment of leper asylums by Local Government.

5 In section 6 of the said Act—
Amendment of section 6, Act III. of 1898

(a) in sub-section (1) after the words "any police-officer" the words "or any other person specially empowered by the Local Government by order in writing in this behalf" shall be inserted ; and

(b) in sub-section (2) after the words "such police-officer" the words "or other person" shall be inserted.

6. In section 12 of the said Act, for the words "by any police officer without a warrant," the words "without a warrant by any police officer or by any other person especially empowered by the Local Government by order in writing in this behalf" shall be substituted.
Amendment of section 12, Act III. of 1898.

* Act II. of 1898.

ACT NO. XXIII. OF 1920.

The Indian Rifles Act. 1920

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 31st day of August 1920.

An Act to provide for the better discipline of Police-officers enrolled in Military Police or Rifle Battalions.

WHEREAS it is expedient to provide for the better discipline of Police-officers enrolled under local Acts in Military Police or Rifle Battalions ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Rifles Act, 1920.

Police-officers subject to discipline and penalties prescribed in local Acts wherever serving.

2. All Police-officers enrolled under the provisions of any local Military Police or Rifles Act shall be subject to the discipline and penalties prescribed by such Act wherever serving in India.

ACT NO. XXIV. OF 1920.

The Code of Civil Procedure (Amendment) Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 31st day of August, 1920.

A Bill further to amend the Code of Civil Procedure, 1908.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908,* It is hereby enacted as follows :—

- | | |
|--|---|
| Short title

Amendment of rule 5 of Order IX in Sch. I, Act V of 1908, | 1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1920.

2. For sub-rule (1) of rule 5 of Order IX. in the First Schedule to the Code of Civil Procedure, 1908,* the following shall be substituted, namely :— |
|--|---|

“(1) Where, after a summons has been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails, for a period of three months from the date of the return made to the Court by the officer ordinarily certifying to the Court returns made by the serving officers, to apply for the issue of a fresh summons the Court shall make an order that the suit be dismissed as against such defendant, unless the plaintiff has within the said period satisfied the Court that—

- (a) he has failed after using his best endeavours to discover the residence of the defendant who has not been served, or
- (b) such defendant is avoiding service of process, or
- (c) there is any other sufficient cause for extending the time, in which case the Court may extend the time for making such application for such period as it thinks fit”

* Act V. of 1908.

ACT NO. XXV. OF 1920,

The Negotiable Instruments (Amendment) Act. 1920

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 31st day of August, 1920.

An Act further to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881 * It is hereby enacted as follows :—

Short title. 1. This Act may be called the Negotiable Instruments (Amendment) Act, 1920.

Insertion of new sections
75-A in Act XXVI of
1881, 2. After section 75 of the Negotiable Instruments Act, 1881 ;* the following section shall be inserted, namely :—

"75-A Delay presentment for payment is excused if the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay causes to operate presentment must be made within a reasonable time."

* Act XXVI. of 1881.

ACT NO. XXVI OF 1920,

The Indian Limitation and Code of Civil Procedure (Amendment) Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

*Received the assent of the Governor-General on the 2nd day of
September, 1920.*

*An Act further to amend Indian Limitation Act 1908, and the
Code of Civil Procedure, 1908.*

WHEREAS it is expedient further to amend the Indian Limitation Act 1908,* and the Code of Civil Procedure, 1908,† It is hereby enacted as follows.—

Short title and commence ment. 1. (1) This Act may be called the Indian Limitation and Code of Civil Procedure (Amendment) Act, 1920

(2) It shall come into force on the first day of January, 1921.

2. "In the third Division of the First Schedule to the Indian Limitation Act, 1908, in Articles 176, 177 and 179, for each of the entries in the second column the entry "ninety days" shall be substituted, and in article 178, for the entry in the second column in the entry "six months" shall be substituted,‡

3. In sub-rule (1) of rule 7 of Order XLV. of the First Schedule to the Code of Civil Procedure, 1908§ (hereinafter referred to as the said Code), the following amendments shall be made namely:—

(i) for the words "six months" the following words shall be substituted, namely:—

"ninety days or such further period, not exceeding sixty days as the Court may upon cause shown allow ;"

(ii) after the word "security" the words "in cash or in Government securities" shall be inserted ;

(iii) at the end of the sub rule the following proviso shall be added, namely:—

"Provided that the Court at the time of granting the certificate may after hearing any opposite party who appears, order on the ground of special hardship that some other form of security may be furnished :

Provided further, that no adjournment shall be granted to an opposite party to contest the nature such security."

* Act XI of 1908

† Act V of 1908.

‡ Section 2 has been substituted by Act, 11 of 1923.

§ Act V. of 1908.

Insertion of new rule 9-A, 4. After rule 9 of Order XLV. of the First
in Order XLV. of First Schedule to the said Code, the following rule
Schedule to Act V. 1908. shall be inserted, namely :—

"9-A. Nothing in these rules requiring any notice to be served on or
given to an opposite party or res-
pondent shall be deemed to require
any notice to be served on or given
to the legal representative of any
deceased opposite party or deceased respondent in a
case, where such opposite party or respondent did not
appear either at the hearing in the Court whose decree is
complained of or at any proceedings subsequent to the decree
of that Court :

Provided that notices under sub rule 3 and under rule 8 shall be
given by affixing the same in some conspicuous place in the
Court-house of the Judge of the District in which the suit
was originally brought, and by publication in such newspapers
as the Court may direct."

Addition to rule 15 of 5. To rule 15 of Order XLV. of the First
Order XLV. of Act V., Schedule to the said Code, the following sub-rule
1908. shall be added, namely :—

"(4) Unless His Majesty in Council is pleased otherwise to direct
no order of His Majesty in Council shall be inoperative on
the ground that no notice has been served on or given to the
legal representative of any deceased opposite party or
deceased respondent in a case, where such opposite party or
respondent did not appear either at the hearing in the Court
whose decree was complained of or at any proceedings
subsequent to the decree of that Court, but such order shall
have the same force and effect as if it had been made before
the death took place."*

* [Cf. C. P. C., Order XXII., rule 6.]

ACT NO. XXVII. OF 1920.

The Indian Motor Vehicles Act, 1914.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

Received the assent of the Governor-General on the 2nd day of September, 1920.

An Act further to amend the Indian Motor Vehicles Act, 1914.

WHEREAS it is expedient further to amend the Indian Motor Vehicles Act, 1914,* It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Motor Vehicles (Amendment) Act, 1920.

2. In sub section (2) of section 11 of the Indian Motor Vehicles Act, 1914* (hereinafter referred to as the said Act), after clause (d), the following clause shall be inserted, name :—
Amendment of s. 11, Act VIII of 1914.

“(dd) prescribing the authority by which and the conditions and limitations, subject to which licenses may be suspended or cancelled,”

3 After sub section (1) of section 18 of the said Act the following sub-section shall be inserted, namely :—
Amendment of s. 18, Act VIII of 1914.

“(1A) The prescribed authority may, subject to such conditions and limitations as may be prescribed, cancel or suspend any license granted under this Act”

*Act VIII. of 1914

- (a) in the case of a patent, by reason only of the publication of a description of, or use of, the invention, or
- (b) in the case of a design, by reason only of the exhibition or use of, or the publication of a description or representation of, the design,

in British India during the period specified in this section as that within which the application may be made.

(3) The application for the grant of a patent or the registration of a design under this section must be made in the same manner as an ordinary application under this Act :

Provided that, in the case of a patent, if the application is not accepted within twelve months from the date of the application for protection in the United Kingdom the specification and the drawings (if any) supplied therewith shall be open to public inspection at the expiration of that period.

(4) Where it is made to appear to the Governor-General in Council that the legislature of any other part of His Majesty's dominions has made satisfactory provision for the protection of inventions or designs, patented or registered in British India, the Governor-General in Council may, by notification in the *Gazette of India*, direct that the provisions of this section, with such variations or additions, if any, as may be set out in such notification, shall apply for the protection of inventions or designs patented or registered in that part of His Majesty's dominions."

ACT NO. XXX. OF 1920.

The Rouble Note Act, 1920

PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

*Received the assent of the Governor-General on the 2nd day of September,
1920*

An Act to prohibit the possession and import of rouble notes.

WHEREAS it is expedient to prohibit the possession and import of rouble Notes; It is hereby enacted as follows:—

Short title and duration 1. (1) This Act may be called the Rouble Note Act, 1920.

(2) It shall remain in force for one year:

Provided that if the Governor-General in Council, by notification in the *Gazette of India*, so directs it shall continue in force for such further period not exceeding one year as may be specified in such notification.

2. In this Act, "rouble note" means any note being or purporting to be in the nature of a currency note issued by or on behalf of any form of government in the territories which, on the fourth day of August, 1914, constituted the Russian Empire, or purporting to be so issued, and expressed to be payable in roubles.

Prohibition of possession and import of rouble notes.

3. No person shall—

(a) save as otherwise provided in this Act, have in his possession any rouble note, or

(b) bring into British India, whether by land, sea or air, any such note.

4. Where under the provisions of any law any person has deposited a rouble note in a Government currency office or treasury, he shall not be entitled to withdraw the same therefrom, except subject to the conditions of a license issued by an officer of Government authorised by the Governor-General in Council in this behalf.

Withdrawal of rouble notes from a currency office or treasury

Penalties.

5. Any person who—

(a) contravenes any of the provisions of section 3, or

(b) fails to comply with the conditions of a license for the withdrawal of a rouble note from Government currency office or treasury issued under section 4,

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and any rouble note in respect of which an offence has been committed under this section shall be confiscated, and shall be disposed of in such manner as the Governor-General in Council may direct.

Repeal of Ordinance II. of 1920.

The Rouble Note Ordinance, 1920,* is hereby repealed.

* Act II. of 1920.

ACT NO. XXXI. OF 1920.

The Repealing and Amending Act, 1920.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL

*Received the assent of the Governor General on the 2nd day of
September 1920.*

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule,

And whereas it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by express specific repeal, should be expressly and specifically repealed,

It is hereby enacted as follows :—

1 This Act may be called the Repealing and Amending Act, 1920.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to,

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed,

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

AMENDMENTS.

(See section 2)

Year	Number	Short title	Amendments.
1882	II	The Indian Trusts Act, 1882.	In clause (a) of section 20, after the word " securities " the words " of any Local Government or " shall be inserted
1887	X.	The General Clauses Act, 1897.	<p>After section 30, the following section shall be inserted, namely —</p> <p>31 In any enactment made by any ^{Construction of} authority in ^{references to Local British India} Government of a ^{Province} before the date on which section 3 of the Government of India Act, 1919, comes into operation, and in any rule, order, notification, scheme, bye-law or other document made under or with reference to, any such enactment, any reference by whatever form the words to an Authority authorized by law, at the time the enactment was made, to administer executive Government in any part of British India shall, where a corresponding new authority has been constituted by the Government of India Act, 1919, be construed for all purposes after the above-mentioned date, as a reference to such new authority."</p>
1914	X.	The Repealing and Amending Act, 1914.	In the First Schedule, for the short title " The Indian Airships Act, 1911," in the third column against Act XVII of 1911 the following shall be substituted, namely — " The Indian Aircraft Act, 1911."
1914	XVII	The Second Repealing and Amending Act, 1914.	In the Second Schedule, for the short title " The Indian Airships Act, 1911," in the third column against Act XVII. of 1911 the following shall be substituted, namely — " The Indian Aircraft Act, 1911 "

THE FIRST SCHEDULE—*concl'd.*

Year.	Number.	Short title.	Amendments.
1920	XVIII.	The Dacca University Act, 1920.	<p>In section 45, for the words from "Every such arbitration" to the end of the section the following shall be substituted, namely —</p> <p>"Every such request shall be deemed to be a submission to arbitration upon the terms of this section, within the meaning of the Indian Arbitration Act, 1899, and all the provisions of that Act, with the exception of section 2 thereof, shall apply accordingly."</p> <p>In sub-section (1) of section 46, for the words "a pension or provident fund" the following shall be substituted, namely — "such pension and provident funds as it may deem fit." *</p>

THE SECOND SCHEDULE,

REPEALS

(See section 3.)

Year.	Number.	Short title.	Extent of repeal.
1891	XII.	The Amending Act, 1891.	<p>So much of Part I. of the Second Schedule as relates to section 24 of Act III of 1864</p> <p>So much of Part I of the Second Schedule as relates to section 26 of Act IX. of 1874.*</p>
1911	II.	The Indian Patents and Designs Act, 1911.	Section 81
1914	IV.	The Decentralization Act, 1914.	So much of the Schedule as relates to Act III of 1879, Act IV. of 1904, and Act XIII. of 1908.
1914	X.	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to Act III of 1879

* * Certain entry after this repealed by Act 7 of 1924 has been omitted.

ACT NO XXXII OF 1920.

The Post Office Cash Certificates (Amendment) Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

*Received the assent of the Governor General on the 2nd day of
September, 1920.*

An Act to amend the Post Office Cash Certificates Act, 1917.

Whereas it is expedient to amend the Post Office Cash Certificates Act, 1917,* It is hereby enacted as follows :—

Short title.

1. This Act may be called the Post Office Cash Certificates (Amendment) Act, 1920.

2. In sub-section (1) of section 2 of the Post Office Cash Certificates Act 1917,* for the words "the Post Master General for the area in which the post office of issue is situate" the words "an officer of the Post Office authorised by general or special order of the Governor-General in Council in that behalf" shall be substituted.

Amendment of section 2
of Act XVIII. of 1917.

3. In sub-section 3 of the Post Office Cash Certificates Act, 1917,* after the words "in such a Bank" the following words shall be inserted, namely :—

Amendment of section 3
of Act XVIII. of 1917,

"and as if for the words 'three thousand' in sections 4 and 8 of the said Act the words 'five thousand' were substituted."

* Act XVIII. of 1917.

ACT NO. XXXIII OF 1920.

The Identification of Prisoners Act 1920

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 9th September, 1920

An Act to authorise the taking of measurements and photographs of convicts and others

Whereas it is expedient to authorise the taking of measurements and photographs of convicts and others, It is hereby enacted as follows:—

Short title and extent. 1. (1) This Act may be called the Identification of Prisoners Act, 1920, and

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Pargans and the district of Angul.

Definitions 2 In this Act, unless there is anything repugnant in the subject or context,—

(a) "measurements" include finger impressions and foot-print impressions;

(b) "police-officer" means an officer in charge of a police station, a police officer making an investigation under Chapter XIV. of the Code of Criminal Procedure, 1898,* or any other police officer not below the rank of sub-inspector, and

(c) "prescribed" means prescribed by rules made under this Act,

Taking of measurements,
etc., of convicted persons. 3. Every person who has been—

(a) convicted of any offence punishable with rigorous imprisonment for a term of one year or upwards, or of any offence which would render him liable to enhanced punishment on a subsequent conviction; or

(b) ordered to give security for his good behaviour under section 118 of the Code of Criminal Procedure, 1898,*

shall, if so required, allow his measurements and photograph to be taken by a police-officer in the prescribed manner.

4. Any person who has been arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards shall, if so required by a police officer, allow his measurements to be taken in the prescribed manner.

5. If a Magistrate is satisfied that for the purposes of any investigation or proceeding under the Code of Criminal Procedure, 1898,* it is expedient to direct any person to allow his measurements or photograph to be taken, he may make an order to that effect,

Taking of measurements,
etc., of non-convicted persons.
Power of Magistrate to order a person to be measured or photographed

* Act V. of 1898.

and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in the order and shall allow his measurements or photograph to be taken, as the case may be, by a police officer :

Provided that no order shall be made directing any person to be photographed except by a Magistrate of the first class .

Provided further, that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.

6. (1) If any person who under this Act is required to allow his measurements or photograph to be taken resists or refuses to allow the taking of the same, it shall be lawful to use all means necessary to secure the taking thereof

Resistance to the taking of measurements, etc

(2) Resistance to or refusal to allow the taking of measurements or photographs under this Act shall be deemed to be an offence under section 186 of the Indian Penal Code.*

7. Where any person who, not having previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards has had his measurements taken or has been photographed in accordance with the provisions of this Act is released without trial or discharged or acquitted by any Court, all measurements and all photographs (both negatives and copies) so taken shall, unless the Court or (in a case where such person is released without trial) the District Magistrate or Sub divisional Officer for reasons to be recorded in writing otherwise directs, be destroyed or made over to him

Destruction of photographs and records of measurements, etc., on acquittal.

8 (1) The Local Government may make rules for the purpose of carrying into effect the provisions of this Act.

Power to make rules,

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for—

(a) restrictions on the taking of photographs of persons under section 5 ,

(b) the places at which measurements and photographs may be taken ;

(c) the nature of the measurements that may be taken ;

(d) the method in which any class or classes of measurements shall be taken ;

(e) the dress to be worn by a person when being photographed under section 3 , and

(f) the preservation, safe custody, destruction and disposal of records of measurements and photographs.

9. No suit or other proceeding shall lie against any person for anything done, or intended to be done, in good faith under this Act or under any rule made thereunder.

Bar of suits.

* Act XLV of 1860..

ACT NO. XXXIV. OF 1920.

The Indian Passport Act 1920.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 9th September, 1920.

An Act to take power to require passports of persons entering British India.

Whereas it is expedient to take power to require passports of persons entering British India ; It is hereby enacted as follows :—

Short title and extent. 1. (1) This Act may be called the Indian Passport Act, 1920.

(2) It shall extend to the whole of British India, including British Baluchistan, the Sonthal Pargans and the district of Angul.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context—

“entry” means entry by water, land or air ,

“passport” means a passport for the time being in force issued or renewed by the prescribed authority and satisfying the conditions prescribed relating to the class of passports to which it belongs ; and

“prescribed” means prescribed by rules made under this Act

3 (1) The Governor-General in Council may make rules requiring that persons entering British India shall be in possession of passports, and for all matters ancillary or incidental to that purpose

(2) Without prejudice to the generality of the foregoing power such rules may—

(a) prohibit the entry into British India or any part thereof of any person who has not in his possession a passport issued to him ;

(b) prescribe the authorities by whom passports must have been issued or renewed, and the conditions with which they must comply, for the purposes of this Act ; and

(c) provide for the exemption, either absolutely or on any condition of any person or class of persons from any provision of such rules.

(3) Rules made under this section may provide that any contravention thereof or of any order issued under the authority of any

such rule shall be punishable with imprisonment for a term which may extend to three months, or with the fine or with both.

(4) All rules made under this section shall be published in the *Gazette of India*, and shall thereupon have effect as if enacted in this Act.

4 (1) Any officer of police, not below the rank of a sub-inspector, and any officer of the Customs Department
Power of arrest. empowered by a general or special order of the Local Government in this behalf may arrest without warrant any person who has contravened or against whom a reasonable suspicion exists that he has contravened any rule or order made under section 3

(2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest police-station and the provisions of section 61 of the Code of Criminal Procedure, 1898,* shall, so far as may be, apply in the case of any such arrest.

5 The local Government may, by general or special order, direct
Power of removal the removal of any person from British India who, in contravention of any rule made under section 3 prohibiting entry into British India without passport has entered therein and thereupon any officer of Government shall have all reasonable powers necessary to enforce such direction.

* Act V. of 1898.

ACT NO. XXXV OF 1920.

The Basel Mission Trading Company Act, 1920

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

Received the assent of the Governor General on the 9th September, 1920

An Act to validate certain indentures relating to property formerly held by the Basel Mission Trading Company, and to provide for the incorporation of Trustees and for other purposes

WHEREAS, by an order made by the Governor-General in Council in exercise of the powers conferred by section 7 of the Enemy Trading Act, 1916,* and bearing date the twenty-second day of May, 1919, certain property was vested in the Custodian of Enemy Property for Madras and Coorg, and

Whereas in pursuance of an order made by the Governor General in Council, dated the twenty-fifth day of August, 1919, the said Custodian, by an indenture dated the twenty-sixth day of January, 1920, and referred to in the Second Schedule as Indenture A transferred the said property to certain trustees on trusts therein declared, and

Whereas by divers mesne appointments the said property became vested upon the said trusts in the persons named in the First Schedule, and

Whereas the persons named in the First Schedule (hereinafter referred to as the said Trustees) have, with the approval of the Governor-General in Council, by an indenture dated the twenty-first of August, 1910, and referred to in the said Schedule as Indenture B, transferred the said property to the Commonwealth Trust, Limited, a corporation incorporated in England, for the purposes and upon the terms and conditions in the said indenture set out, and

Whereas doubts have arisen and may arise as to the validity of certain matters in connection with the above mentioned transfers, and

Whereas it is expedient to terminate such doubts and to constitute the said Trustees a body corporate in order that the intention of the said transfers may be fully carried out;

It is hereby enacted as follows :—

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|--|---|
| Short title. | 1. This Act may be called the Basel Mission Trading Company Act, 1920 |
| 2 (1) The persons named in the first Schedule and their predecessors in office shall be deemed to have been validly appointed trustees of the indenture referred to in the Second Schedule as Indenture A, and together with their successors: | |
| Incorporation of Trustees. | |

* Act X of 1916.

in office, are hereby constituted a body corporate with perpetual succession and a common seal and may sue and be sued by the corporate name of the Mission Trust of Madras

(2) For the purposes of the appointment of the successors to the persons named in the first Schedule in their office as such trustees, the provisions of the Indian Trusts Act, 1882,* shall be deemed to apply, and appointments of any trustees which are required to be made by the National Missionary Council of India shall be sufficiently made if made by writing under the hand of the Chairman of that body.

3 Notwithstanding anything contained in any enactment or rule of law to the contrary, the indentures described in the Second Schedule are hereby declared to be validly made and the property transferred or purporting to be transferred therein shall be deemed to have been duly transferred by the said indentures, and all acts or things heretofore done under either of the said indentures are validated and confirmed, and every obligation imposed or purporting to be imposed on any person mentioned in either of the said indentures shall be binding in law on the person named therein, whether such person is or is not a party to such indenture

4. No suit or other legal proceeding shall be brought against the said Trustees or the Commonwealth Trust, Limited by or on behalf of any creditor, shareholder or bondholder of the Basel Mission Trading Company or any other person whatsoever for the payment of any sum due or alleged to be due by the said Company, unless the consent of the Governor General in Council has first been obtained

THE FIRST SCHEDULE

(See section 2)

John Anderson Thorne, Secretary to the Board of Revenue (Land Revenue) Madras

Paul Appaswami, Judge of the Court of Small Causes, Madras.

Muthiah David Devadoss, Barrister-at-Law, Madras.

Duncan Gordon MacNaughton Leith, Secretary, German Missions Committee of the National Missionary Council.

Anthony Watson Brough of the London Mission, Erode, Madras.

* Act II of 1882.

THE SECOND SCHEDULE

(See sections 2 and 3)

INDENTURE A.

Date.	Parties.	Short effect.
20th January, 1920 Registered at Madras, on 25th June, 1920, being Serial No 2035 of 1920 in Registration Book No I of the office of the Registrar of Madras, Chingleput	Daniel Chamier, Custodian of Enemy Property, Madras and Coorg, (therein referred to as the Custodian) of the first part and Henry Reginald Pate, Secretary to the Board of Revenue (Land Revenue), Madras, Arthur Davies, The Reverend William Meston, The Hon'ble Mr Muthiah David Devadoss and the Reverend Duncan Gordon MacNaughton Leith of the other part	Being a transfer by the Custodian to the Trustees on the trusts therein mentioned of the undertaking and of all property moveable or immoveable in the Madras Presidency and Coorg formerly belonging to, or held in trust for, the Company or Society commonly known in India as the Basel Mission Trading Company and which became vested in the Custodian by Order of the Governor-General in Council, dated 22nd May 1919.

INDENTURE B

Date.	Parties.	Short effect
21st August 1920 . Registered at Madras on 21st August 1920 being Serial No 2825 of 1920 in Registration Book No. 1 of the office of the Registrar of Madras Chingleput.	John Anderson Thorne Seretary to the Board of Revenue, Madras Paul Appaswami, The Hon'ble Mr. Muthiah David Devadoss, the Reverend Duncan Gordon MacNaughton Leith and the Reverend Anthony Waston Brough, there in referred to as the Trustees) on the one part and the Commonwealth Trust, Limited, a company registered under the English Companies Acts. (therein referred to as the Company) of the other part.	Being a transfer on the terms and conditions and subject to the reservations therein mentioned by the Trustees to the Company of the undertaking and property comprised in the deed, dated 26th January, 1920 and referred to above as Indenture A.

ACT NO. XXXVI. OF 1920.

The Indian Coinage (Amendment) Act 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor General on the 9th September 1920.

An Act further to amend the Indian Coinage Act, 1906.

Whereas it is expedient further to amend the Indian Coinage Act, 1906 ;* It is hereby enacted as follows :—

Short title.

1 This Act may be called the Indian Coinage (Amendment) Act, 1920.

Amendment of section 11 of Act III. of 1906.

2 In section 11 of the Indian Coinage Act, 1906,* for the word "fifteen" the word "ten" shall be substituted.

Repeal of Ordinance III of 1920.

3. The Gold Ordinance, 1920,† is hereby repealed.

ACT NO. XXXVII. OF 1920.

The Indian Army (Amendment Act 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

Received the assent of the Governor-General on the 9th September 1920

An Act further to amend the Indian Army Act 1911

Whereas it is expedient further to amend the Indian Army Act, 1911,‡ It is hereby enacted as follows .—

Short title.

1 This Act may be called the Indian Army (Amendment) Act, 1920

Amendment of section 20 of Act VIII of 1911

2 In sub-section (2) of section 20 of the Indian Army Act, 1911,‡ (hereinafter referred to as the said Act),—

(1) for the words 'Imprisonment in military custody may be specified, as such a minor punishment' the words "Imprisonment in military custody and, in the case of persons subject to this Act on active service,

* Act III, of 1906.

† Act III, of 1920.

‡ Act VIII. of 1911.

any prescribed field punishment may be specified as 'minor punishments', shall be substituted; and

(2) in clause (a) after the word "imprisonment" the words "or field punishment" shall be inserted.

3. In section 24 of the said Act—

(1) to sub-section (1) the words "He may at any time arrest and detain for trial any person subject to this Act who commits an offence and may also carry into effect any punishments to be inflicted in pursuance of the sentence of a court-martial" shall be added, and

(2) for sub-sections (2) and (3) the following sub-section shall be substituted, namely :

"(2) A provost-marshal may punish with any punishment mentioned in section 22, sub-section (1), clause (b) any follower who is subject to this Act under section 2, sub-section (1), clause (c) and is a menial servant and who on active service and in his view, or in the view of his assistants, commits any breach of good order and military discipline."

4. In section 41 of the said Act—

(1) in clause (a) after the word "punishment" and

(2) in clause (b) after the word 'punishment' where it first occurs, the words "other than whipping" shall be inserted

5. For section 45 of the said Act the following section shall be substituted, namely :—

"45. Where any person, subject to this Act and under the rank of warrant officer, on active service is guilty of any offence, it shall be lawful for a court-martial to award for that offence any such punishment, other than flogging, as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb."

6. In sections 46 and 49 of the said Act for the words "corporal punishment" the words "field punishment" shall be substituted.

7. In section 50 of the said Act—

(1) to clause (a) the words "or of field punishment awarded by a court-martial or such officer" shall be added; and

(2) in clause (b) after the word "imprisonment" the words "or field punishment" shall be inserted.

8 For section 67 of the said Act the Substitution of new section 67 of following section shall be substituted, namely :—
Act VIII. of 1911.

"67 No trial by court martial of any person subject to this Act for any offence, other than an offence of mutiny, Limitation of trial. desertion or fraudulent enrolment, shall be commenced after the expiration of three years from the date of such offence, and no such trial for an offence of desertion (other than desertion on active service) or of fraudulent enrolment shall be commenced if the person in question has, subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of His Majesty's regular forces

Explanation —For the purposes of this section, 'mutiny' means any of the offences specified in clauses (a), (b) and (c) of section 27".

9 After clause (b) of sub-section (2) of section 113 of the said Act the following clause shall be inserted, namely :—
Amendment of section 113 of Act VIII. of 1911.

"(bb) the specification of the punishments which may be awarded as field punishments under sections 20 and 45"

10 Section 111 of the said Act is hereby repealed
Repeal of section 111 of Act VIII. of 1911,

ACT NO. XXXVIII. OF 1920.

The Devolution Act, 1920.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL,

Received the assent of the Governor-General on the 14th September, 1920

An Act to relax the control in certain respects of the Governor-Generals in Council over Local Governments and to transfer to such Governments certain powers now exercisable by the Governor-General in Council.

Whereas powers of control are vested in the Governor-General in Council in virtue of certain enactments and it is expedient to relax those powers and to transfer to Local Governments powers under certain enactments now exercisable by the Governor-General in Council ; It is hereby enacted as follows :—

1. This Act may be called the Devolution Act, 1920.
 2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof,
Amendment of certain enactments.
 3. The enactment specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.
Consequential repeals
 4. Any appointment, notification, order, scheme, rule, form or bye-law made or issued, before the commencement of this Act, by an authority for the making or issuing of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by an appointment, notification, order, scheme, rule, form or bye-law made or issued by such new authority.
Saving of orders, etc., issued by previous authorities.
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THE FIRST SCHEDULE

(See section 2.)

PART I — *Acts of the Governor-General in Council*

Year.	Number	Short title or subject	Amendments
1851	VIII	The Indian Tolls Act, 1851	In section 2, the words "not exceeding the rates mentioned in the Schedule annexed to this Act" and the Schedule, shall be omitted
1857	XXIX.	Collection of Bombay Land Customs	The proviso to section 5 shall be omitted *
1860	IX.	The Employers and Workmen Disputes Act, 1860.	In section 9, the words "of the Governor-General of India in Council or" shall be omitted
1861	V	The Police Act 1861	In sections 2 and 3, after the word "subject" the words "in the case of officers of the Indian Police of and above the rank of Assistant Superintendent" shall be inserted
1864	XV.	The Indian Tolls Act, 1864.	<p>The words from "not exceeding" to "schedule mentioned" in the Preamble, the whole of section 1 and the Schedule shall be omitted</p> <p>In section 2, for the words from "specified in the schedule" to the end of the section the words "authorized to be levied under the said Act VIII. of 1851," shall be substituted.</p>
1865	X.	The Indian Succession Act, 1865.	In section 332, for the words "Governor-General of India in Council" wherever they occur the words "Local Government," for the words "in British India" the words "in the territories administered by the Local Government," for the word "he" the words "the Local Government," and for the words " <i>Gazette of India</i> " the words "local official Gazette" shall be substituted.

* Certain entry after this repealed by Act 3 of 1925 has been omitted

THE FIRST SCHEDULE.—*contd*

Year.	Number	Short title or subject.	Amendments
1865	XV.	The Parsi Marriage and Divorce Act, 1865.	In section 8A, for the words "Governor-General in Council" the words "Local Government, by which he was appointed" for the words "the Local Government, by which he was appointed," the words "such Local Government" and for the words "the Governor-General" the words "such Local Government" shall be substituted
1867	XXV	The Press and Registration of Books Act, 1867	In section 21, for the words "Governor-General of India in Council" the words "Local Government" and for the words " <i>Gazette of India</i> " the words "local Gazette" shall be substituted
1868	V.	Delegation of powers to the Commissioner in Sindh	In section 2, the words "with the consent of the Governor General of India in Council" shall be omitted.
1869	I.	The Oudh Estates Act, 1869	In section 9, for the words "Governor-General of India in Council" the words "Local Government" for the words "the said Governor-General in Council" the words "the Local Government" and for the words " <i>Gazette of India</i> " where they occur for the second time the words "local official Gazette" shall be substituted.
1870	VII .	The Court-fees Act, 1870.	<p>In section 20, the words "and sanctioned by the Governor General of India in Council" shall be omitted.</p> <p>In sections 22 and 23, the words "and the Governor-General of India in Council" shall be omitted.</p> <p>In sections 26 and 35, for the words "Governor-General of India in Council" the words "Local Government" and the words "<i>Gazette of India</i>" the words "local official Gazette" shall be substituted</p> <p>In section 35, for the words "British India" the words "the territories under its administration" shall be substituted.</p>

THE FIRST SCHEDULE—*contd*

Year	Number	Short title or subject.	Amendments
1870	VIII.	The Female Infanticide Prevention Act, 1870	<p>In section 1, the words "with the previous sanction of the Governor-General of India in Council" shall be omitted</p> <p>In section 3, the words "confirmed by the Governor-General of India in Council and " and the words "in the <i>Gazette of India</i> and also " shall be omitted</p> <p>In section 7, for the words from "and the Governor of Madras" to the end of the section the following shall be substituted, namely —</p> <p>"and the Local Government of any other part of British India may, by notification published in the local official Gazette, extend it to any part of the territories under the administration of that Local Government"</p>
1871	IV.	The Coroners Act, 1871.	In section 36 for the words "Governor-General in Council" the words "Local Government" shall be substituted.
1872	III	The Special Marriage Act, 1872	In section 13-A, for the words "Governor-General in Council" wherever they occur the words "Local Government" shall be substituted.
1872	XV	The Indian Christian Marriage Act, 1872.	<p>For section 86, the following section shall be substituted, namely. —</p> <p>" 86. (1) The powers and functions exercisable as regards Native States by the Governor-General in Council under sections 6, 8, 9, 47, 48, 56 and 84 shall, so far as regards any Native States which is within the political charge of a Local Government, be exercised by that</p>

THE FIRST SCHEDULE — *contd*

Year.	Number.	Short title or subject.	Amendments.
			<p>Local Government The exercise under this section by any Local Government of powers and functions under sections 6, 8, 9 and 56 shall be by notification in the local official Gazette</p> <p>(2) The powers and functions exercisable under this Act by the Governor-General in Council may be delegated to, and exercised by, such officers as he may from time to time appoint in this behalf</p>
1873	VIII.	The Northern Indian Canal and Drainage Act, 1873.	In section 75, the words ' subject to the control of the Governor General in Council ' and the words " subject to the like control " shall be omitted
1874	III.	The Married Women's Property Act, 1874.	In section 2, for the words " Governor-General in Council " wherever they occur the words " Local Government " and for the words " <i>Gazette of India</i> " the words " local official Gazette " shall be substituted.
1874	IX	The European Vagrancy Act, 1874	<p>In section 1, for the words from " as the Governor-General in Council " to the end of the section the following shall be substituted, namely —</p> <p>" as in the case of Coorg and the said Island the Local Government by notification in the local official Gazette, and in the case of any of the said dominions, the Governor General in Council by notification in the <i>Gazette of India</i>, from time to time appoints in this behalf."</p> <p>To the same section, the following shall be added namely — "Provided further, that in the case of any</p>

THE FIRST SCHEDULE.—*contd.*

Year	Number	Short title or subject	Amendments.
			<p>of the said dominions which is within the political charge of a Local Government, the power conferred on the Governor General in Council by this section shall be exercised by that Local Government by notification in the local official Gazette.</p> <p>In sections 14 and 36, the words "subject to the control of the Governor-General in Council" shall be omitted.</p> <p>In section 26, for the words "Government of India" the words "Governor, Lieutenant-Governor or Chief Commissioner of the Province concerned" and for the words "Governor-General in Council" the words "Local Government" shall be substituted</p> <p>To section 35, the following shall be added, namely —"Provided that, in the case of any such place which is within the political charge of a Local Government, the power conferred on the Governor General in Council by this section shall be exercised by that Local Government by notification in the local official Gazette"</p>
1874	XIV.	The Scheduled Districts Act, 1874	<p>In sections 3, 5 and 5 A, the words "with the previous sanction of the Governor General in Council" shall be omitted, and in sections 3 and 5 the words "in the <i>Gazette of India</i> and also" and the words "if any" shall be omitted.</p> <p>In section 9, for the words "Governor General in Council" the words "Local Government" shall be substituted</p>
1875	XVIII.	The Indian Law Reports Act, 1875	<p>In the preamble for the words "the Governor General in Council proposes" the words "it is proposed" shall be substituted</p>

THE FIRST SCHEDULE.—*contd*

Year	Number	Short title or subject.	Amendments
			In section 3, for the words "the Governor General in Council" the words "any Local Government" shall be substituted
1875	XX	The Central Provinces Laws Act, 1875	In section 10, the words "when sanctioned by the Governor-General in Council" shall be omitted
1876	II	The Burma Land and Revenue Act, 1876.	In section 1, the words "and with the previous sanction of the Governor General in Council" shall be omitted. In section 57, the words "subject to any restrictions from time to time imposed by the Governor-General in Council" shall be omitted. In section 60, the words "to the control of the Governor General in Council and" shall be omitted
1876	XVIII.	The Oudh Laws Act, 1876.	To section 39, the following shall be added, namely — "Provided that the previous sanction of the Governor-General in Council which is required by clause (d) shall not be necessary in the case of any tax which, under rules made under clause (a) of sub-section (3) of section 80 A of the Government of India Act may be imposed, for the purposes of the Local Government by any law made by the local legislature without the previous sanction of the Governor-General
1878	I	The Opium Act, 1878.	In sections 5 and 8 for the word "with the previous sanction" the words "subject to the control" shall be substituted. In section 13 the words "with the previous sanction of the Governor General in Council" shall be omitted
1878	VII.	The Indian Forest Act, 1878	In section 1 the words "with the previous sanction of the Governor General in Council" shall be omitted.

THE FIRST SCHEDULE.—*contd*

Year	Number	Short title or subject	Amendments.
1878	VIII	The Indian Forest Act, 1878	<p>In section 31 the words "and subject to the control of the Governor-General in Council" shall be omitted</p> <p>In section 39, the words "subject to the control of the Governor-General in Council" and the words "subject to the like control or sanction, respectively" shall be omitted.</p>
1878	XVII	The Northern India Ferries Act, 1878.	<p>In section 4, for the first Proviso the following shall be substituted, namely —</p> <p>"Provided that when a river lies between two Provinces, the powers conferred by this section shall, in respect of such river, be exercised jointly by the Local Governments of those Provinces by notifications in their respective official Gazettes, and in any case where the said Local Governments fail to agree as regards the exercise of any such power they shall exercise such power subject to the control of the Governor-General in Council"</p> <p>In clause (d) of section 17 the words "subject to the control of the Governor-General in Council" shall be omitted</p>
1879	VI.	The Elephant's Preservation Act, 1879	<p>In section 1, the words "with the previous sanction of the Governor-General in Council" shall be omitted.</p> <p>In section 6, the words "subject to the control of the Governor-General in Council" shall be omitted</p>
1879	XIII	The Oudh Civil Courts Act, 1879	<p>For section 6, the following shall be substituted, namely :—</p> <p>"6 The Judicial Commissioner, the District Judges, Subordinate Judges and Munsifs shall be appointed by the Local Government."</p>

THE FIRST SCHEDULE —*contd.*

Year	Number	Short title or subject	Amendments.
1879	XIV	The Hackney-carriage Act, 1879	In section 5 for the words "Governor-General in Council" where they first occur the words "Local Government" shall be substituted
1879	XVII.	The Dekkhan Agriculturists' Relief Act, 1879	In section 1, the words "with the previous sanction of the Governor-General in Council" shall be omitted. In section 54, the words "and if the Government of India so direct shall" shall be omitted, and for the words "Government of India" where they occur for the second time in the same section the words "Local Government" shall be substituted.
1880	I	The Religious Societies Act, 1880.	In section 1, for the words "Governor-General in Council" the words "Local Government" and for the words " <i>Gazette of India</i> " the word "local official Gazette" shall be substituted
1880	VII.	The Indian Merchant Shipping Act, 1880	In sections 23 and 73 the words "with the previous sanction of the Governor General in Council" shall be omitted
1880	XIII.	The Vaccination Act, 1880.	In sections 4, 5 and 20 the word "subject to the control of the Governor-General in Council" shall be omitted
1881	V	The Probate and Administration Act, 1881	In section 2 the words "with the previous sanction of the Governor General in Council" shall be omitted.
1881	XXI	The Broach and Kaira Incumbered Estates Act, 1881	In section 3 the words "with the previous sanction of the Governor General in Council" shall be substituted
1882	IV.	The Transfer of Property Act, 1882.	In sections 1 and 117 the word "with the previous sanction of the Governor General in Council" shall be omitted.
1882	XV	The Presidency Small Cause Courts Act, 1882.	In section 7 the words "subject to the control of the Governor-General in Council" and the word

THE FIRST SCHEDULE.—*contd*

Year	No.	Short title or subject.	Amendments
1883	XX	The Punjab District Boards Act, 1883	<p>"with the previous sanction of the Governor General in Council" shall be omitted.</p> <p>In sub section (2) of section 11, in proviso (a) the words "or the Governor General in Council, for some reason affecting the public interests, sanctions the direction," and in proviso (b) the words "except with the approval of the Governor General in Council or" shall be omitted.</p> <p>In section 30, for the words "Governor-General in Council" the words "Local Government" shall be substituted.</p> <p>In sub-section (2) of section 36, the words "subject to the control of the Governor-General in Council" where they occur in both places, shall be omitted</p> <p>In clause (1) of section 55, for the words "Governor-General in Council" the words "Local Government" shall be substituted, and in sub clause (a) before the words "make general rules" the following shall be inserted, namely — "In the case of taxes which, under rules made under clause (a) of sub-section (3) of section 80-A. of the Government of India Act, a local authority may be authorized to impose by any law made by the local legislature without the previous sanction of the Governor-General."</p> <p>In the same section, the words from "Rules made under clause 2 (b)" to the end of the section shall be omitted</p>
1884	VII	The Indian Steamships Act, 1884.	<p>In sub-section (4) of section 13, in clause (a) the words "with the previous sanction of the Governor-General in Council" and in clause (b) the words "of its own authority" shall be omitted.</p>

THE FIRST SCHEDULE—*contd*

Year.	Number	Short title or subject.	Amendments
1885	VIII	The Bengal Tenancy Act, 1885.	<p>In sub-section (1) of section 39, the words "subject to the control of the Governor-General in Council" shall be omitted.</p> <p>In section 101, sub-section (1), the words "with the previous sanction of the Governor-General in Council and may" and the words "without such sanction in any of the cases next hereinafter mentioned" shall be omitted.</p>
1885	VIII.	The Bengal Tenancy Act, 1885.	<p>In sub-section (2) of the said section, for the words from "The cases" to "the following" the following shall be substituted, namely —</p> <p>"In particular and without prejudice to the generality of the foregoing power, the Local Government may make such an order in the following cases"</p> <p>In sub-section (3) of section 105 for the words "Government of India" the words "Local Government" and for the words "Gazette of India" the words "local official Gazette" shall be substituted,</p> <p>In section 112 In sub-section (1) the words "with the previous sanction of the Governor-General in Council" and the whole of sub-section (3) shall be omitted.</p>
	XVIII.	The Land Acquisition (Mines) Act, 1885.	<p>In clause (c) of section 3 (2), and in section 8, for the words "Governor-General in Council" the words "Local Government" shall be substituted.</p> <p>In sub-section (2) of section 5, the words "in such manner as the Governor-General in Council may from time to time direct" shall be omitted, and to the same section the following sub-section shall be added, namely .—</p>

THE FIRST SCHEDULE.—*contd*

Year	Number	Short title or subject.	Amendments.
1886	VI	The Births, Deaths and Marriages Registration Act, 1886	<p>(5) "Every declaration made under this section shall be published in such manner as the Local Government may direct"</p> <p>In section 14, after the words "those sections" the words "except in section 5, sub-section (5) and section 8" shall be inserted</p> <p>In sub-section (2) of section 11, the words "with the previous approval of the Governor-General in Council" shall be omitted.</p> <p>To section 13 the following proviso shall be added, namely — "Provided that the powers and functions exercisable by the Governor-General in Council under this section shall, in the case of any such dominions which are within the political charge of a Local Government be exercised by that Local Government by notification in the local official Gazette"</p> <p>To sub-section (2) of section 24, the following shall be added, namely — "Provided that such certified copies shall, in the case of any such dominions which are within the political charge of a Local Government be sent to the Registrar General of Births, Deaths and Marriages for the territories under the administration of that Local Government."</p> <p>To section 32, the following shall be added, namely — "Provided that such register or record shall, in the case of any such dominions which are within the political charge of a Local Government be sent to the Registrar General of Births, Deaths and Marriages for the territories under the administration of that Local Government."</p>

THE FIRST SCHEDULE—*contd*

Year	Number	Short title or subject	Amendments
1886	VI	The Births, Deaths and Marriages Registration Act, 1886	<p data-bbox="539 304 895 379">For sub-section (1) of section 33, the following shall be substituted, namely —</p> <p data-bbox="570 395 895 762">“(1) Any Local Government, in the case of registers or records sent under section 32 to the Registrar General for the territories under its administration, and the Governor-General in Council, in the case of registers or records so sent to any other Registrar General appointed by him under the said section, may appoint so many persons as it or he, as the case may be, thinks fit to be Commissioners for examining such registers or records.”</p> <p data-bbox="539 783 895 895">In sub-section (2) of the same section, for the words “Governor-General in Council” the words “authority appointing them” shall be substituted.</p> <p data-bbox="539 911 895 986">For sub-section (1) of section 35-A, the following shall be substituted, namely —</p> <p data-bbox="570 1023 895 1437">“(1) The Governor-General in Council or the Local Government if he or it thinks fit, may, by notification in the <i>Gazette of India</i> or the local official Gazette, as the case may be, appoint more Commissions than one for the purposes of section 33, each such Commission consisting of so many and such members and having its functions restricted to the disposal, under this Act and the rules thereunder of such registers and records sent under section 32 to the Registrar General, as may be specified in the notification.”</p>

THE FIRST SCHEDULE—*contd*

Year.	Number.	Short title or subject.	Amendments.
1887	VII.	The Suits Valuation Act, 1887.	In sub-section (1) of section 3, for the words " with the previous sanction " the words " subject to the control " shall be substituted
"	X	The Native Passenger Ships Act, 1887	In section 20, for the words " Governor General in Council " the words " Local Government " shall be substituted. In sub-section (2) of section 53, the words " with the previous sanction of the Governor-General in Council " shall be omitted.
"	XII.	The Bengal, Agra and Assam Civil Courts Act, 1887.	For section 4, the following section shall be substituted, namely :— " 4 The Local Government may alter the number of District Judges, Subordinate Judges and Munsifs now fixed." In sub section (1) of section 15 after the words " Governor-General in Council " the following shall be inserted, namely — " in the case of the High Court at Calcutta and by the Local Government in other cases " In clause (b) of section 36 (1), the words " with the previous sanction of the Governor-General in Council " shall be omitted.
"	XVI	The Punjab Tenancy Act, 1887	In section 107, the words " to the control of the Governor-General in Council and " shall be omitted.
"	XVII	The Punjab Land Revenue Act, 1887	In section 5, after the words " those tahsils " the words " and districts " shall be inserted, and the words " districts and " where they occur for the second time shall be omitted In clause (a) of section 61 (1) and in clause (c) of section 145 (1), the words " with the previous sanction of the Governor-General in Council " shall be omitted.

THE FIRST SCHEDULE—*contd*

Year	Number	Short title or subject	Amendments
1888	XVIII	The Burma Financial Commissioner's Act, 1888	<p>In sub section (4) of section 145, for the words "Governor-General in Council may on a reference from the Local Government" the words "Local Government may" shall be substituted and in sub-section (5) of the same section for the words "Governor-General in Council" the words "Local Government" shall be substituted</p> <p>In section 156, the words "to the control of the Governor-General in Council and" shall be omitted.</p> <p>In sections 4 and 5 the words "with the previous sanction of the Governor-General in Council" and in section 5 the words "with such sanction as aforesaid," shall be omitted.</p>
1890	VI	The Charitable Endowments Act, 1890.	<p>In sub-section (1) of section 3 for the words "Governor General in Council" the words "Local Government," and for the words "any Local Government" the words "such Local Government" shall be substituted.</p> <p>In clause (e) of section 4 (3) and in section 11 for the words "Governor-General in Council" the words "Local Government" shall be substituted</p> <p>For section 13 the following section shall be substituted, namely —</p> <p>" 13 (1) The Governor-General in Council may prescribe forms for any proceedings under this Act and may make rules consistent with this Act for prescribing the Local Government which is to exercise the powers conferred by this Act in the case of property which is or is situated, in territories subject to two or more Local Government."</p>

THE FIRST SCHEDULE —*contd*

Year	No.	Short title or subject.	Amendments.
			<p>(2) The Local Government may make rules consistent with this Act for—</p> <p>(a) prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments ;</p> <p>(b) regulating the cases and the mode in which schemes or any modification thereof are to be published before they are settled or made under section 5 ;</p> <p>(c) prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments and the mode in which such accounts are to be audited , and</p> <p>(d) generally carrying into effect the proposes of this Act.</p> <p>Section 16 shall be omitted.</p>
1890	XIV.	The Oudh Courts Act, 1891	In sub-section (1) of section 4 the words " with the previous sanction of the Governor-General in Council " shall be omitted
1894	I.	The Land Acquisition Act, 1894	<p>In sub-section (1) of section 38 and in section 41, the words " subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf " shall be omitted.</p> <p>In sub-section (1) of section 55, the words " subject to the control of the Governor-General in Council " shall be omitted.</p> <p>And to the same sub-section the following proviso shall be added, namely —</p> <p>' Provided that where the provisions of this Act are put in force for the acquisition of land—</p>

THE FIRST SCHEDULE.—*contd*

Year	Number.	Short title or subject.	Amendments.
			<p>(a) for the purposes of any railway, or</p> <p>(b) for such other purposes, connected with the administration of a central subject as defined in section 45-A of the Government of India Act, as the Governor-General in Council may by notification in the <i>Gazette of India</i> declare in this behalf,</p> <p>the power to make, alter and add to rules conferred on the Local Government by this sub-section shall be exercised subject to the control of the Governor General in Council."</p>
1896	II.	The Cotton Duties Act, 1896	In sub section (3) of section 28, for the words " Governor-General in Council " the words "Local Government " shall be substituted
1897	III	The Epidemic Diseases Act, 1897	<p>Sub section (3) of section 2 shall be omitted,</p> <p>After section 2 the following section shall be inserted, namely —</p> <p>" 2A When any Local Government is satisfied that the ^{Concurrent powers of Local Government} Province or any part thereof is visited by, or threatened with an outbreak of any dangerous epidemic disease, and that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread thereof, such Local Government may exercise all or any of the powers conferred by this Act on the Governor-General in Council."</p>

THE FIRST SCHEDULE—*contd.*

Year	No	Short title or subject.	Amendments.
1897 ^f .	IX	The Provident Funds Act, 1897	In section 6 for the words "Governor General in Council" the words "Local Government" and for the word "his" the word "its" shall be substituted
1898	V	The Code of Criminal Procedure, 1898	<p>In the proviso to section 1 (2), the words "with the sanction of the Governor-General in Council" shall be omitted</p> <p>In sections 7 (2), 14 (3), 269 (1), 495 (1), 544 and 565 (3), the words "with the previous sanction of the Governor-General in Council" shall be omitted</p> <p>For section 22, the following section shall be substituted, namely —</p> <p>"22 Every Local Government, so far as regards the territories subject to its administration (other than the presidency towns) may by notification in the official Gazette appoint such European British subjects as it thinks fit to be Justices of the Peace within and for the local area mentioned in such notification."</p> <p>In sub-section (1) of section 24, for the words "Governor-General in Council" the words "Local Government" and for the words "British India" where it occurs for the second time the words "the territories subject to its administration" shall be substituted.</p> <p>In section 27, the words from "the Governor-General in Council" to "and" shall be omitted</p> <p>In section 132 for the words "Governor General in Council" the words "Local Government" shall be substituted and to the same section the following proviso shall be added, namely —</p>

THE FIRST SCHEDULE — *contd*

Year.	No	Short title or subject	Amendments
			<p>"Provided that no such prosecution shall be instituted in any Criminal Court against any officer or soldier in His Majesty's Army except with the sanction of the Governor-General in Council</p> <p>In sub-section (4) of section 313, after the words "Governor-General in Council" the words "or the Local Government" shall be inserted.</p>
"	XIII.	The Burma Laws Act, 1898.	In sections 10 (3), (12) (1) (b) and (c) and 14 (4), for the words "with the previous sanction" the words "subject to the control" shall be substituted
1899	IV.	The Government Buildings Act, 1899.	In sub-section (3) of section 4, after the word "section" the following shall be inserted, namely—"in regard to any building which is used or required for the administration of a central subject as defined in section 45A of the Government of India Act or which is the property of the Government of India"
1899	IX	The Indian Arbitration Act, 1899.	In the proviso to section 2, the words "with the previous sanction of the Governor-General in Council" shall be omitted
"	XIII.	The Glanders and Farcy Act, 1899.	In sub-section (1) of section 2, for the words "Governor-General in Council" the words "Local Government" and for the words " <i>Gazette of India</i> " the words "local official gazette" shall be substituted
"	XXIV.	The Central Provinces Court of Wards Act, 1899.	In clause (c) of section 2, the words "with the previous sanction of the Governor-General in Council" shall be omitted.
1900	III.	The Prisoners Act, 1900.	In sub-section (1) of section 19, for the words "British India" the words "the Province" and for the words "Governor-General in Council" the words "Local Government" shall be substituted

THE FIRST SCHEDULE.—*contd*

Year	Number.	Short title.	Amendments.
1900	III	The Prisoners Act, 1900— <i>contd</i>	<p>For section 21 the following section shall be substituted, namely :—</p> <p>“21. (1) The Local Government may grant to any person under sentence of penal servitude a license to be at large within such part of the Province and during such portion of his term of penal servitude as may be specified in the license and upon such conditions as the Governor-General in Council may by general or special order prescribe.</p> <p>(2) The Local Government may revoke or subject to such conditions, alter any license granted under sub-section (1)”</p> <p>In section 23 for the words “Government of India” the words “Local Government” shall be substituted.</p> <p>For sub-section (4) of section 30, the following shall be substituted, namely —</p> <p>“(4) In any case in which the Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the Province, the Local Government may order his removal to any such asylum or place within any other Province or within the territories of any Native Prince or State in India by agreement with the Local Government of such other Province or with such Native Prince or State</p>

THE FIRST SCHEDULE—*contd*

Year	Number	Short title or subject.	Amendments
1900	III	The Prisoners Act, 1900— <i>contd</i>	<p>as the case may be ; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed under sub-section (1) shall so far as they can be made applicable, apply to a prisoner removed under this sub section "</p> <p>Section 32 shall be renumbered section 32 (1) and in the same section for the words "Governor-General in Council" the words "Local Government" and for the words "British India" the words "the Province," shall be substituted.</p> <p>And to the same section the following sub-section shall be added, namely —</p> <p>"(2) In any case in which the Local Government is competent under sub section (1) to appoint places within the Provinces and to order the removal thereto of persons under sentence of transportation, the Local Government may appoint such places in any other Province by agreement with the Local Government of that Province and may by like agreement give orders or duly authorize some officer to give orders for the removal thereto of such persons "</p> <p>In section 42, the words "The Governor-General in Council or," the words "the Gazette of India or" and the words "as the case may be" shall be omitted.</p>
	VI.	The Lower Burma Court's Act, 1900.	<p>In sub-section (1) of section 17, for the words "Governor-General in Council" the words "Local Government" shall be substituted.</p>

THE FIRST SCHEDULE—*contd.*

Year	Number.	Short title or subject	Amendments.
"	XIII	The Punjab Alienation of Land Act, 1900	In section 24, the words "with the previous sanction of the Governor-General in Council" shall be omitted
1901	VI	The Assam Labour and Emigration Act, 1901	In clause (b) of section 1 (2) and in section 221, for the words "with the previous sanction" the words "subject to the control" shall be substituted In sub-section (2) of section 64, for the words "the Governor-General in Council" the words "Local Government" shall be substituted
"	VIII	The Indian Mines Act, 1901.	In sub-section (1) of section 18, the words "the Governor-General in Council or" where they occur in both places shall be omitted
1903	I.	The Amending Act, 1903	In Part II of the Second Schedule in the entry in column 4 against Act XXI of 1836, the words "with the previous sanction of the Governor-General in Council" shall be omitted.
"	XVI	The Central Provinces Municipal Act, 1903	In section 35 for the words "Governor-General in Council" where they first occur the words "Local Government" shall be substituted and to clause (a) the following sub-clause shall be added, namely — "(xii) any other tax which, under rules made under clause (a) of section 80-A, sub-section (3), of the Government of India Act, a local authority may be authorized to impose by any law made by the local legislature without the previous sanction of the Governor-General."
1908	V	The Code of Civil Procedure, 1908.	In sub-section (1) of section 5 the words "with the previous sanction of the Governor-General in Council" and the words "with the sanction aforesaid" shall be omitted.

THE FIRST SCHEDULE.—*contd*

Year	Number.	Short title or subject	Amendments
			<p>In sections 61, 67 (1) and (2), 68, and 143 the words "with the previous sanction of the Governor-General in Council" shall be omitted</p> <p>In section 125, for the words "as the Governor General in Council may determine" the following shall be substituted, namely — "as, in the case of the Court of the Judicial Commissioner of Coorg, the Governor-General in Council, and in other cases the Local Government may determine"</p>
"	XIV.	The Indian Criminal Law Amendment Act, 1903	<p>In sub-section (2) of section 1, for the words "Governor-General in Council" the words "Local Government of any other Province," for the words "<i>Gazette of India</i>," the words "official gazette and," for the words "any other Province" the words "that Province" shall be substituted.*</p> <p>In clause (b) of section 15 (2) and in section 16, for the words "Governor General in Council" wherever they occur, the words "Local Government," shall be substituted</p>
"	XVI	The Indian Registration Act, 1908.	<p>In sub-section (2) of section 1, the words "with the previous sanction of the Governor-General in Council" shall be omitted.</p> <p>In sub-section (1) of section 4, the words "with the previous consent of the Governor-General in Council" shall be omitted.</p> <p>In sub-section (1) of section 4 and in section 78, the words "subject to the control of the Governor-General in Council" shall be omitted †</p>

* Certain words after this repealed by Act 5 of 1922 have been omitted.

† The entry regarding Act XVII of 1908 after this has been repealed by Act 11 of 1923,

THE FIRST SCHEDULE.—*contd.*

Year	Number.	Short title or subject.	Amendments
1910	IX.	The Indian Electricity Act, 1910.	<p>Sub-section (3) of section 3 shall be omitted</p> <p>In section 10, the words "with the previous sanction of the Governor-General in Council" shall be omitted</p> <p>In sub-section (2) of section 32, for the words "Governor-General in Council" in both places where they occur the words "Local Government," and for the words "he" the word "it" shall be substituted</p> <p>In sub-section (1) of section 34, for the words "Governor-General in Council" the words "Local Government" shall be substituted.*</p>
1912	II	The Co-operative Societies Act, 1912.	<p>Section 28 shall be renumbered section 28 (1) and in the said section letter and brackets "(a)" and the whole of clauses (b) and (c) shall be omitted.</p> <p>To the same section the following sub-section shall be added, namely :—</p> <p>"(2) The Local Government, by notification in the local official Gazette, may, in the case of any registered society or class of registered society, remit—</p> <p>(a) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable; and</p> <p>(b) any fee payable under the law of registration for the time being in force."</p>

* Certain entry after this repealed by Act 6 of 1924 has been omitted.

THE FIRST SCHEDULE—*contd*

Year	No	Short title or subject.	Amendments.
1912	IV	The Ladian Lunacy Act, 1912	<p data-bbox="544 316 888 424">In sub-section (1) of section 35, for the words from "Any lunatic" to "Governor-General in Council" the following shall be substituted, namely —</p> <p data-bbox="572 451 888 687">"Any lunatic may, in accordance with any general or special order of the Local Government, be removed from any asylum established by Government to any other asylum within the province, or to any other asylum in any other province with the consent of the Local Government of that province"</p> <p data-bbox="544 710 888 922">In sub section (2) of the same section, for the words "Governor-General in Council" the words "Local Government" and for the word "he" where it first occurs the word "it" shall be substituted; and in the same sub section, for the words "In British India" the following shall be substituted, namely —</p> <p data-bbox="576 944 888 1074">"In the province, or to any asylum jail or other place of safety in any other province with the consent of the Local Government of that province."</p> <p data-bbox="550 1096 888 1161">For section 85, the following section shall be substituted, namely</p> <p data-bbox="578 1184 888 1441">"85. The Magistrates or Courts exercising jurisdiction in any province may send lunatics or any class of lunatics to any asylum situate in any other province in accordance with any general or special order of the Local Government made in that behalf with the consent of the Local Government of such other province."</p>

THE FIRST SCHEDULE—*contd.*

Year.	Number.	Short title or subject.	Amendments.
			<p>In sub-section (1) of section 91, the words "subject to the control of the Governor-General in Council" shall be omitted.</p> <p>In section 99 for the words "Governor-General in Council" the words "Local Government," and for the words "British India" the words "the province" shall be substituted.</p>
1912	VII.	The Bengal, Bihar and Orissa and Assam Laws Act, 1912.	The proviso to section 3 shall be omitted.
1914	IX.	The Local Authorities Loans Act, 1914	<p>To sub-section (1) of section 3, the following further proviso shall be added, namely :—</p> <p>"Provided further that, in the case of loans other than loans made by the Local Government, no amount exceeding twenty-five lakhs of rupees shall be borrowed unless the terms, including the date of flotation, of such loan have been approved by the Governor-General in Council"</p> <p>In sub-section (1) of section 4, for the words "Governor-General in Council" where they first occur the words "Local Government" shall be substituted.</p> <p>In the same sub-section, in clause (vi) the words from "without" to the end of the clause shall be omitted ; and for clause (vii) the following shall be substituted, namely :—</p> <p>"(vii) the cases in which local authorities may take loans from persons other than the Local Government."</p> <p>Sub-section (2) of section 4, and in sub-section (3) the words from "in the Gazette of India" to "delegated power," shall be omitted.</p>

THE FIRST SCHEDULE—*contd.*

Year	Number.	Short title or subject.	Amendments.
1917	I	The Inland Steam-vessels Act, 1917	In sub-section (1) of section 19, the words "with the previous sanction of the Governor-General in Council" shall be omitted.
1918	II	The Cinematograph Act, 1918	<p>In sub-section (3) of section 1, for the words "Governor-General in Council" the words "Local Government" and for the words "<i>Gazette of India</i>" the words "local official Gazette" shall be substituted.</p> <p>In sub-section (1) of section 8, for the words "Governor-General in Council" the words "Local Government" shall be substituted.</p> <p>Sub-section (3) of the the same section shall be omitted, and in sub-section (4), the words "<i>Gazette of India</i> or" and the words "as the case may be" shall be omitted.</p>
1919	I.	The Local Authorities Pensions and Gratuities Act, 1919.	In sub section (1) of section 4, for the words "Governor-General in Council" where they occur for the second time the words "Local Government" shall be substituted.
"	XII.	The Poisons Act, 1919.	<p>In sub-section (1) of section 4. for the words "with the previous sanction" the words "subject to the control" shall be substituted</p> <p>In sub section (1) of section 8, for the words "the Governor General in Council or" the word "and" shall be substituted.</p>
1920	V.	The Provincial Insolvency Act, 1920.	In section 81, the words "with the previous sanction of the Governor-General in Council" shall be omitted
PART II.— <i>Regulations by the Governor-General in Council.</i>			
1880	II.	The Assam Frontier Tracts Regulation, 1880	In section 1, for the words "the Governor-Governor in Council," where they occur in both places. the word "he" and for the words " <i>Gazette of India</i> " the words "local Gazette" shall be substituted.

THE FIRST SCHEDULE.—*contd*

Year	No.	Short title or subject	Amendments.
1884	III	The Assam Frontier Tracts Regulation, 1884.	<p>In section 2, the words "with the previous sanction of the Governor-General in Council" shall be omitted</p> <p>In section 1, for the words "Governor-General in Council" where they occur in both places, the words "Chief Commissioner" shall be substituted</p>
1886	I.	The Assam Landlord Revenue Regulation, 1886	<p>In sections 1 (2) and 18, the words "with the previous sanction of the Governor-General in Council" wherever they occur, shall be omitted</p> <p>In proviso (a) to section 34, for the words "Governor General in Council" the words "Chief Commissioner" shall be substituted</p> <p>In sections 122, 124 and 158 (1), the words "subject to the control of the Governor-General in Council" shall be omitted</p> <p>In sub-section (1) of section 139, the words "subject to such rules as the Governor General in Council may make in this behalf" shall be omitted</p> <p>Sub-section (3) of section 157 shall be omitted.</p>
1887	XII.	The Upper Burma Ruby Regulation, 1887.	<p>In section 14, the words "with the previous sanction of the Governor-General in Council" shall be omitted</p>
1889	III.	The Upper Burma Land and Revenue Regulation, 1889.	<p>In sub-sections (2) and (3) of section 27, the words "subject to the control of the Governor-General in Council" shall be omitted</p> <p>In sub section (1) of section 51, the words "to the control of the Governor-General in Council and" shall be omitted.</p>

THE FIRST SCHEDULE.—*contd*

Year.	Number	Short title or subject	Amendments.
1891	VII.	The Assam Forest Regulation, 1891.	In section 21, for the words "Governor General in Council" the words "Local Government" shall be substituted
1892	V	The Upper Burma Criminal Justice Regulation, 1892	In section 1 of the Schedule, for the words "Governor-General in Council" the words "Local Government" shall be substituted. In sub-section (2) of section XII of the Schedule, the words "The Governor-General in Council or" shall be omitted
1896	I	The Upper Burma Civil Courts Regulation, 1896	In sub-section (1) of section 17, for the words "Governor-General in Council" the words "Local Government" shall be substituted
1899	I.	The Coorg Land and Revenue Regulation, 1899.	In sections 6 (2) and 7 for the words "Governor General in Council" wherever they occur, the words "Chief Commissioner" shall be substituted.
1900	I	The Chittagong Hill-tracts Regulation, 1900.	In sections 2 (2) and 4 (2), the words "with the previous sanction of the Governor-General in Council" shall be omitted.
1901	I.	The Coorg Courts Regulation, 1901.	In section 3, after the words "Judicial Commissioner" the words "and the Chief Commissioner may appoint" shall be inserted. In section 18, the words "with the previous approval of the Governor General in Council" shall be omitted
1915	I	The Excise Regulation, 1915	In sections 4 and 8, the words "with the previous sanction of the Governor-General in Council" shall be omitted. To section 4, the following proviso shall be added, namely:—

THE FIRST SCHEDULE — *contd.*

Year	No	Short title or subject.	Amendments.
			<p>"Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Governor-General in Council,"</p> <p>To section 8, the following proviso shall be added, namely —</p> <p>"Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (a) without the previous sanction of the Governor General in Council"</p>

PART III.—*Madras Acts.*

1888	I.	The Local Authorities Loan Act, 1888.	In section 3, the words "with the previous sanction of the Governor-General in Council" shall be omitted
1902	I.	The Madras Court of Wards Act, 1902	In sub-section (1) of section 45 the words "with the previous sanction of the Governor-General in Council" shall be omitted.
1919	IV.	The Madras City Municipal Act, 1919.	<p>In section 15, proviso (a), section 83, proviso (a), section 95, second proviso, and sections 144 and 145, for the words "Governor General in Council" the words "Governor in Council" shall be substituted</p> <p>In section 48, the words "with the sanction of the Governor General in Council" shall be omitted.</p> <p>In clauses (i) and (ii) of the proviso to section 142 (1), the words from "or if the loan" to Governor-General in Council" shall be omitted, and to the said proviso the following shall be added, namely —</p> <p>"(iii) no loan exceeding in amount twenty-five lakhs of rupees shall be raised unless the</p>

THE FIRST SCHEDULE — *contd*

Year	Number.	Short title	Amendments.
1919	IV.	The Madras City Municipal Act, 1919— <i>contd.</i>	<p>terms, including the date of flotation, of such loan have been approved by the Governor-General in Council."</p> <p>In section 143, for the words "Governor-General in Council" the words "Governor in Council" shall be substituted</p>

PART IV.—*Bombay Acts.*

1866	XII.	Constitution of Courts in Sindh	In section 1, the words "with the sanction of the Government of India" shall be omitted
1867	VI	Sanitary Regulation of the City of Bombay	In section 1, the words "acting under the general control of the Government of India" shall be omitted.
1868	II.	The Bombay Ferries Act, 1868	In section 4, the words "or imperial" and the words "except with the sanction of the Governor General in Council" shall be omitted.
1876	II.	The Bombay City Land-Revenue Act, 1876.	In section 6, the words "under the general control of the Governor-General of India in Council" shall be omitted.
1878	V.	The Bombay Abkari Act, 1878	In proviso (a) to section 19, the words "with the previous sanction of the Government of India" shall be omitted
1886	VI.	The Karachi Port Trust Act, 1886.	In section 3, the words "with the approval of the Governor General in Council" shall be omitted
1888	III.	The City of Bombay Municipal Act, 1888.	<p>In section 106, for the words "Governor-General of India in Council" the words "Governor in Council" shall be substituted; and to the same section the following proviso shall be added, namely :—</p> <p>"Provided that no loan exceeding in amount twenty-five lakh of rupees shall be contracted by the Corporation unless</p>

THE FIRST SCHEDULE.—*contd.*

Year.	Number.	Short title or subject.	Amendments.
1888	III.	The City of Bombay Municipal Act, 1888.	<p>the terms, including the date of flotation, of such loan have been approved by the Governor-General of India in Council "</p> <p>In clause (c) of section 109 for the words "the Governor-General of India in Council" the words "the Governor in Council" shall be substituted.</p>
1890	II	The Bombay Salt Act, 1890.	<p>In sub-section (1) of section 4, for the words "subject to the general control of the Governor-General in Council" the following shall be substituted, namely :—</p> <p>"Subject to such control of the Governor-General in Council as may be prescribed by rules made under section 45-A of the Government of India Act "</p>
1890	IV.	The Bombay District Police Act, 1890.	<p>In section 4 after the word "subject" the words "in the case of officers of the Indian Police of and above the rank of Assistant Superintendent" shall be inserted, and for the words "the authorities aforesaid" the word "Government" shall be substituted.</p> <p>In sub section (2) of section 5 the words "subject to the previous approval of the Governor-General in Council" shall be omitted.</p>
1898	IV.	The City of Bombay Improvement Act, 1898.	<p>In section 33, the words "for transmission to the Government of India" shall be omitted, and for words "the Government of India" where they occur for the second time the word "Government" shall be substituted.</p> <p>In section 37, the words "either the Government of India or" shall be omitted.</p>

THE FIRST SCHEDULE—*contd.*

Year.	Number.	Short title or subject.	Amendments.
1898	IV.	The City of Bombay Improvement Act, 1898.— <i>contd</i>	<p>In section 52, for the words "the Government of India" the word "Government" shall be substituted, and to the same section the following proviso shall be added, namely —</p> <p>"Provided that no loan exceeding in amount twenty-five lakhs of rupees shall be raised by the Board unless the terms, including the date of flotation, of such loan have been approved by the Government of India."</p> <p>In section 53, for the words "the Government of India" the word "Government" and for the words "with the previous consent of the Government of India" the words "subject to the provisions of the last preceding section" shall be substituted, and the words "under the last preceding section" shall be omitted</p> <p>In section 55 (2), 57, 61 (2) and 75(1) for the words "the Government of India" the word "Government" shall be substituted.</p>
1901	III.	The Bombay District Municipal Act, 1901.	<p>In section 59, for the words "Governor-General in Council" the words "Governor in Council" shall be substituted, and after clause (x) the following clause shall be inserted namely — "(x-A) any other tax which, under rules made under clause (a) of section 80-A, sub section (3), of the Government of India Act, a local authority may be authorized to impose by any law made by the local legislature without the previous sanction of the Governor-General."</p> <p>In clause (xi) of the same section, after the words "Governor in Council" the words "and of the Governor-General in Council" shall be inserted.</p>

THE FIRST SCHEDULE.—*contd.*

Year	Number.	Short title.	Amendments.
1902	IV.	The City of Bombay Police Act, 1902.	In section 44, for the words "Governor-General in Council" the words "Governor in Council" shall be substituted.
1918	VI	The Bombay Disqualification of Aliens Act, 1918	In section 5, the words "with the approval of the Governor-General in Council" shall be omitted
1866	II.	The Calcutta Suburban Police Act, 1866	In sub-section (4) of section 47-A, the word "subject to the control of the Governor-General in Council" shall be omitted.
"	IV.	The Calcutta Police Act, 1866.	In section 4, for the words "Governor-General of India in Council" the following shall be substituted, namely — "Lieutenant-Governor, subject to rules made under section 45-A of the Government of India Act." In sub-section (4) of section 78-A., the words "subject to the control of the Governor-General in Council" shall be omitted.
1869	VII.	The Bengal Police Act, 1869	In section 5 after the words "subject" the words "in the case of officers of the Indian Police of and above the rank of Assistant Superintendent" shall be inserted.
1879	III.	The Bengal Steam-boilers and Prime-movers Act, 1879.	In clause (f) of section 4 (2), for the words "Government of India" the words "Local Government" shall be substituted, and after the words "payment" the words "subject to rules made under section 45-A, of the Government of India Act" shall be inserted.
1899	III.	The Calcutta Municipal Act, 1899.	In sub-section (3) of section 24, the words "with the previous sanction of the Government of India" shall be omitted In clauses (i) and (ii) of the proviso to section 128 (1), the words "or (if the loan exceeds rupees five lakhs or is to be repaid after a period exceeding thirty years) the Government of India" shall be omitted

THE FIRST SCHEDULE.—*contd*

Year.	No	Short title or subject.	Amendments.
			<p>After clause (iii) of the same proviso, the following shall be inserted, namely —</p> <p>“(iv) no loan exceeding in amount twenty-five lakhs of rupees shall be raised unless the terms, including the date of flotation, of such loan have been approved by the Government of India.”</p> <p>In sub-section (2) of section 14 B, for the words “Government of India” the words “Local Government” shall be substituted.</p>
1904	III.	The Bengal Settled Estates Act, 1904.	In sections 7 and 16 (5) the words “with the previous sanction of the Governor-General in Council” shall be omitted.
1908	VI.	The Chota Nagpur Tenancy Act, 1908.	In section 265 (1) the words “with the previous sanction of the Government of India” shall be omitted.
1909	V	The Bengal Excise Act, 1909.	<p>In sections 4 and 11, the words “with the previous sanction of the Government of India” shall be omitted.</p> <p>To section 4, the following proviso shall be added, namely —</p> <p>“Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Government of India.”</p> <p>To section 11, the following proviso shall be added, namely —</p> <p>“Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (a) without the previous sanction of the Government of India.”</p>

THE FIRST SCHEDULE—*contd.*

Year.	No.	Short title or subject,	Amendments.
1911	V.	The Calcutta Improvement Act, 1911	<p>In clauses (v) and (vi) of proviso (b) to section 83 (1) and in sections 176 (1) and (2) and 177 (1), the words " with the previous sanction of the Government of India " shall be omitted.</p> <p>In section 89, for the words " Government of India " the words " Local Government " shall be substituted , and to the same section the following proviso shall be added, namely —</p> <p style="padding-left: 40px;">" Provided that no loan exceeding in amount twenty-five lakhs of rupees shall be taken by the Board unless the terms, including the date of flotation, of such loan have been approved by the Government of India "</p> <p>Section 90 shall be omitted.</p> <p>In sections 93 (1), 98, 99 and 100 for the words " Government of India " wherever they occur, the words " Local Government " shall be substituted.</p>
1913	II.	The Bengal Board of Revenue Act, 1913	In the proviso to section 3, the words " with the previous sanction of the Government of India " shall be omitted
1918	III.	The Bengal (Aliens) Disqualification Act, 1918.	In the proviso to section 3, the words " with the approval of the Governor-General in Council " shall be omitted.
<i>PART VI.—United Provinces Acts.</i>			
1892	III.	The United Provinces Village Courts Act, 1892.	In section 77, the words " and subject to the approval of the Governor-General in Council " shall be omitted.
1899	II.	Collection of Taxes by Railway Administrations.	In section 3, the words " and of the Governor-General in Council " shall be omitted.
1901	II.	The Agra Tenancy Act, 1901.	In sub-section (1) of section 52, the words " with the previous sanction of the Governor-General in Council " shall be omitted.

THE FIRST SCHEDULE—*contd.*

Year	Number	Short title or subject.	Amendments.
1901	III	The United Provinces Land Revenue Act, 1901.	<p>In sections 6 and 13 (1), the words "with the previous sanction of the Governor-General in Council" shall be omitted.</p> <p>In section 62, the words "in accordance with general principles sanctioned by the Governor General in Council" shall be omitted.</p> <p>In the proviso to section 68, the words "without the previous sanction of the Governor General in Council" and the words "from the settlement" where they occur for the second time shall be omitted.</p> <p>In sub-section (3) of section 36, for the words "Governor General in Council" the words "Local Government" shall be substituted.</p>
1906	III.	The United Provinces District Boards Act, 1906.	<p>In sub section (1) of section 5, the proviso shall be omitted.</p> <p>In sub-sections (2) and (4) of section 32 and in clause (f) of section 56 (1), after the words "Governor-General in Council" the words "or Local Government" shall be inserted.</p> <p>In sub-section (2) of section 46, the words "and subject to any general or special orders of the Governor-General in Council" shall be omitted, and for the words "Governor-General in Council" where they occur for the second time the words "Local Government" shall be substituted.</p> <p>In sub-section (1) of section 55, the words "with the previous approval of the Governor-General in Council" shall be omitted.</p>
1910	IV.	The United Provinces Excise Act, 1910.	In sections 3 (4) and 9, the words "subject to such conditions (if any) as the Governor-General in Council may prescribe" shall be omitted.

THE FIRST SCHEDULE —*contd.*

Year.	No.	Short title or subject.	Amendments.
1916	II.	The United Provinces Municipalities Act, 1916.	<p>In sub-section (2) of section 4, the words " with the previous sanction of the Government of India " shall be omitted , and to the said sub-section the following proviso shall be added, namely —</p> <p style="padding-left: 40px;">" Provided that, where the interests of any other Province may be affected no declaration shall be made under this sub-section without the previous sanction of the Government of India."</p> <p>In clause (a) of section 14, the words " with the sanction of the Governor-General in Council " shall be omitted ; and to the said section the following proviso shall be added, namely —</p> <p style="padding-left: 40px;">" Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (a) without the previous sanction of the Government of India."</p> <p>In sub section (2) of section 3, the word " or " at the end of clause (a) and the whole of clauses (b) and (c) shall be omitted.</p> <p>In section 80, for the words " Governor-General in Council " where they first occur the words " Local Government " shall be substituted, and after the words " Governor-General in Council " where they occur for the second time the words " or Local Government " shall be inserted.</p> <p>In sub section (1) of section 128, for the words " Governor General in Council " where they first occur the words " Local Government " shall be substituted, and after clause (xiii) the following clause shall be inserted, namely :—</p>

THE FIRST SCHEDULE.—*contd.*

Year.	Number	Short title or subject	Amendments
			<p>“(xiii-A) any other tax which under rules made under clause (a) of section 80A, sub-section (3) of the Government of India Act, a local authority may be authorized to impose by any law made by the local legislature without the previous sanction of the Governor General.”</p> <p>In clause (xiv) of the same sub-section for the words “any other tax” the following shall be substituted, namely.—“any tax not authorized under clauses (1) to (xiii-A.)”</p> <p>In sub-section (3) of section 133, after the word and figures “clause (xiii)” the words and figures “or under clause (xiii-A)” shall be inserted.</p>

PART VII.—*Punjab Acts.*

1911	III.	The Punjab Municipal Act, 1911.	<p>In section 61, for the words “Governor-General in Council” where they first occur the words “Local Government” shall be substituted; and after clause (B) (i) the following clause shall be inserted, namely —</p> <p>“(j) any other tax which under rules made under clause (a) of section 80-A, sub-section (3) of the Government of India Act, a local authority may be authorized to impose by any law made by the local legislature without the previous sanction of the Governor-General.”</p> <p>In sub-section (1) of section 238, the words “with the previous approval of the Governor-General in Council” and the proviso shall be omitted.</p>
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THE FIRST SCHEDULE—*contd.*

Year	Number.	Short title.	Amendments.
1912	V.	The Colonization of Government Lands (Punjab) Act, 1912.	In the proviso to section 4 after the words "Provided that" the words "unless the Local Government by general or special order otherwise directs" shall be inserted, and the words "without the previous sanction of the Governor-General in Council" shall be omitted
1914	I.	The Punjab Excise Act, 1914	<p>In sections 4 and 17, the words "with the previous sanction of the Governor-General in Council," shall be omitted.</p> <p>To section 4, the following proviso shall be added, namely — "Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Governor-General in Council"</p> <p>The section 17, the following proviso shall be added, namely;— "Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (a) without the previous sanction of the Governor-General in Council"</p>
PART VIII— <i>Bihar and Orissa Acts.</i>			
1913	I.	The Bihar and Orissa Board of Revenue Act, 1913	In the proviso to section 3, the words "with the previous sanction of the Government of India" shall be omitted.
1913	II.	The Orissa Tenancy Act, 1913.	<p>In sub-section (7) of section 46, the words "subject to the control of the Governor-General in Council" shall be omitted.</p> <p>In sub-section (1) of section 112, the words "with the previous sanction of the Governor-General in Council and may" and the words "without such sanction in any of the cases next hereinafter mentioned" shall be omitted.</p>

THE FIRST SCHEDULE—*contd.*

Year.	Number.	Short title or subject.	Amendments
1913	II.	The Orissa Tenancy Act, 1913— <i>contd.</i>	<p>In sub section (2) of the said section for the words from "The cases" to "the following" the following shall be substituted, namely —</p> <p>"In particular and without prejudice to the generality of the foregoing power, the Local Government may make such an order in the following cases"</p> <p>In sub-section (3) of section 128, for the words "Governor-General in Council" the words "Local Government" and for the words "<i>Gazette of India</i>" the words "local official Gazette" shall be substituted.</p> <p>In sub-section (1) of section 143, the words "with the previous sanction of the Governor General in Council" shall be omitted</p> <p>In sub-section (3) of the same section, for the words "Governor-General in Council" where they occur in both places the words "Local Government" shall be substituted.</p> <p>In sub section (1) of section 192, the words "with the previous sanction of the Governor-General in Council" and the words "with the like sanction" shall be omitted</p>
1915	II.	The Bihar and Orissa Excise Act, 1915.	<p>In sections 4 and 11 the words "with the previous sanction of the Government of India" shall be omitted</p> <p>To section 4, the following proviso shall be added, namely —</p> <p>"Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Government of India."</p> <p>To section 11, the following proviso shall be added, namely —</p> <p>"Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (a) without the previous sanction of the Government of India."</p>

THE FIRST SCHEDULE—*contd.*

Year	No.	Short title or subject.	Amendments.
1910	I	The Eastern Bengal and Assam Excise Act, 1910.	<p>In section 4 the words "with the previous sanction of the Governor-General in Council" shall be omitted and to the said section, the following proviso shall be added, namely —</p> <p>"Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Governor-General in Council"</p> <p>In section 12 the words "with the sanction of the Governor-General in Council" shall be omitted and to the said section, the following proviso shall be added, namely —</p> <p>"Provided that, where the interests of any other Province may be affected no notification shall be issued under clause (a) without the previous sanction of the Governor-General in Council."</p>
PART X.— <i>Central Provinces Act.</i>			
1915	II	The Central Provinces Excise Act, 1915	<p>In clause (3) of section 2, the words "subject to the control of the Governor-General in Council" shall be omitted.</p> <p>In sections 4 and 8, the words "with the previous sanction of the Governor-General in Council" shall be omitted.</p> <p>To section 4 the following proviso shall be added, namely :—</p> <p>"Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Governor-General in Council"</p> <p>To section 8, the following proviso shall be added, namely :—</p>

THE FIRST SCHEDULE — *contd*

Year	No	Short title or subject.	Amendments.
1917	I	The Central Provinces Courts Act, 1917.	<p>" Provided that, where the interests of any other Province may be affected, no such notification shall be issued under clause (a) without the previous sanction of the Governor-General in Council."</p> <p>In sub-section (1) of section 4 the words 'with the sanction of the Governor-General in Council' shall be omitted, and after the word "Judges" the words "who shall be appointed by the Local Government and" shall be inserted.</p> <p>For sub section (2) of the same section, the following shall be substituted, namely —</p> <p>"(2) The Local Government shall appoint one of such Judges to be the Judicial Commissioner, and the others shall be Additional Judicial Commissioners."</p>
1917	II	The Central Provinces Land Revenue Act, 1917	<p>Section 4 shall be omitted</p> <p>In sub-section (2) of section 5, for the words 'with the previous sanction' the words "subject to the control" shall be substituted.</p> <p>In sub-section (1) of section 8 the words "with the previous sanction of the Governor-General in Council" shall be omitted.</p>
PART XI.— <i>Burma Acts.</i>			
1898	III	The Burma Municipal Act, 1898.	<p>In sections 37, 38 and 38-B, after the words "Governor-General in Council" wherever they occur, the words "or of the Local Government" shall be inserted.</p> <p>In sub-section (1) of section 46, for the words "Governor-General in Council" the words "Local Government" shall be substituted, and after clause (k) of division (A) the following clause shall be inserted, namely —</p>

THE FIRST SCHEDULE.—*contd.*

Year.	Number	Short title or subject.	Amendments.
			<p>" (2) any other tax which, under rules made under clause (a) of section 80-A, sub-section (3), of the Government of India Act, a local authority may be authorized to impose by any law made by the local legislature with the previous sanction of the Governor-General "</p> <p>In division (B) of the same sub-section, for the words " any other tax " the words " any tax not authorized under division (A) " shall be substituted.</p>
1898	IV.	The Lower Burma Town and Village Lands Act, 1898.	In sections 17 (1) and 43, the words " subject to the control of the Governor-General in Council " shall be omitted.
1899	IV.	The Rangoon Police Act, 1899.	<p>In sections 6 and 9, after the word " subject " the words " in the case of officers of the Indian Police of and above the rank of Assistant Superintendent " shall be inserted.</p> <p>In section 7, for the words from " many appoint " to the end of the section the following shall be substituted, namely — " may, subject to rules made under section 45-A of the Government of India Act, appoint so many Superintendents of Police as it thinks fit."</p>
1902	IV.	The Burma Forest Act, 1902.	In section 23, for the words " Governor-General in Council " the words " Local Government " shall be substituted.
1905	IV.	The Rangoon Port Act, 1905.	In sub-section (1) of section 5, the words " with the previous sanction of the Governor-General in Council " shall be omitted
1907	VI.	The Burma Village Act, 1907	In sub section (1) of section 29, the words " subject to the control of the Governor-General in Council " shall be omitted.

THE FIRST SCHEDULE.—*concl'd.*

Year.	Number.	Short title or subject	Amendments.
1910	I.	The Burma Process Fees Act, 1910.	In section 3, the words " subject to the control of the Governor-General in Council and " shall be omitted.
1917	IV	The Rangoon Hackney Carriages Act, 1917	<p>In section 2, the words " subject to the control of the Governor General in Council " shall be omitted ; and to the same section, the following proviso shall be added, namely —</p> <p>" Provided that the Local Government, when extending this Act or any provisions thereof to any cantonment shall exercise its powers under this section subject to the control of the Governor-General in Council."</p>
	V.	The Burma Excise Act, 1917.	<p>In section 3 the words " subject to the control of the Governor-General in Council " shall be omitted and to the said section, the following proviso shall be added, namely —</p> <p>" Provided that, where the interests of any other Province may be affected, such declaration shall be made subject to the Control of the Governor-General in Council."</p> <p>In section 8 the words " with the sanction of the Governor-General in Council " shall be omitted and to the said section, the following proviso shall be added, namely :—</p> <p>" Provided that, where the interests of any other Province may be affected, no notification prohibiting the import or export of any exciseable article shall be issued without the sanction of the Governor-General in Council."</p>

THE SECOND SCHEDULE.

(See section 3)

Year	No.	Short title or subject.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
1890	XVI	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890.	Section 2.
1891	II	The Indian Christian Marriage Act (1872) Amendment Act, 1891.	Section 10.
1895	XVI.	The Amending Act, 1895	In the Second Schedule, Part I, the entry relating to Bombay Act II. of 1876
1911	XV	The Indian Forest Amendment Act, 1911.	Section 4 and clauses (a) and (c) of section 5.
1914	IV	The Decentralization Act, 1914.	In Part I, of the Schedule— <div style="margin-left: 20px;"> <p>(1) the entries relating to</p> <p style="margin-left: 20px;"> Section 75 of Act VIII of 1873, Section 14 of Act IX of 1874, Sections 4 and 5 of Act XIII of 1880 Section 4 of Act XII of 1887. Section 55 of Act I of 1894, and Sections 14 and 78 of Act XVI of 1908 ; </p> <p>(2) in the entry relating to section 36 of Act IX of 1874, the words " subject to the control of the Governor-General in Council , "</p> <p>(3) in the entry relating to section 36, sub-section (2), of Act XX of 1883, the words " Subject to the control of the ", and</p> </div>

THE SECOND SCHEDULE.—*concl'd.*

(See section 3.)

Year.	No.	Short title or subject.	Amendments.
			(4) in the entry relating to section 55 of the same Act, the words from "and to the section" to the end of the entry.
"	X.	The Repealing and Amending Act, 1914.	In the First Schedule, the entry relating to Act XV of 1872.
1919	XVIII.	The Repealing and Amending Act, 1919.	In the Second Schedule the entry relating to Act IV of 1912.
<i>Bombay Act.</i>			
1888	IV.	The City of Bombay Municipal Act, Amendment Act, 1888.	Sections 2 and 3.
<i>Bengal Acts.</i>			
1907	I.	The Bengal Tenancy (Amendment) Act, 1907.	Sub-section (3) of section 36.
1915	V.	The Bengal Decentralization Act, 1915.	In the Schedule, Part II., the entry relating to Bengal Act II of 1866 and the entry relating to section 78 A. of Bengal Act IV. of 1866.
<i>Eastern Bengal and Assam Act.</i>			
1908	I	The Eastern Bengal and Assam Tenancy (Amendment) Act, 1908.	Sub section (3) of section 36.
<i>Burma Act.</i>			
1913	I.	The Burma Land and Revenue Amendment Act, 1913.	Sub section (2) of section 4

ACT NO. XXXIX. OF 1920.

The Indian Elections Offences and Inquiries Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 14th September, 1920.

An Act to provide for the punishment of malpractices in connection with elections, and to make further provision for the conduct of inquiries in regard to disputed elections to legislative bodies constituted under the Government of India Act.

WHEREAS it is expedient to provide for the punishment of malpractices in connection with elections, and to make further provision for the conduct of inquiries in regard to disputed elections to legislative bodies constituted under the Government of India Act ; It is hereby enacted as follows :—

PRELIMINARY.

- Short title and extent. 1. (1) This Act may be called the Indian Elections Offences and Inquiries Act, 1920, and
(2) It extends to the whole of British India.

PART I.

AMENDMENT OF THE INDIAN PENAL CODE AND CODE OF CRIMINAL PROCEDURE

2. (1) In section 21 of the Indian Penal Code,* after the tenth entry, the following shall be inserted, namely
Amendment of the Indian Penal Code " *Eleventh* :—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election," and after *Explanation 2*, the following shall be added, namely :—

" *Explanation 3*.—The word 'election' denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election."

- (2) After Chapter IX of the same Code the following Chapter shall be inserted, namely :—

CHAPTER IX-A.

Of offences relating to elections.

171-A For the purposes of this Chapter—

"Candidate,"
"electoral right" defined.

* Act XLV of 1860.

(a) "candidate" means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat; provided that he is subsequently nominated as a candidate at such election;

(b) "electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

171-B. (1) Whoever—

Bribery.

- (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or
- (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery :

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

171-C. (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right

Undue influence at elections

commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section (1), whoever—

- (a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or
- (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

171-D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name,

and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election

171 E. Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Provided that bribery by treating shall be punished with fine only.

Explanation :— 'Treating' means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

171-F. Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

171 G. Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

171-H. Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees :

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

171 I. Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at, or in connection with, an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees."

3 (1) In section 196 of the Code of Criminal Procedure, 1898,* after the words "Chapter VI." the words "or IX-A." shall be inserted.

(2) In Schedule II to the same Code after the entries relating to Chapter IX ; of the Indian Penal Code† the following shall be added, namely :—

* Act V of 1898.

† Act XLV of 1860.

'CHAPTER IX A.—OFFENCES RELATING TO ELECTIONS.

		Shall not rest without warrant.	Summons	Bailable	Not com- pound- able	Imprisonment of either des- cription for one year, or fine, or both or if treating only, fine only	Presidence, Magistrate or Magis- trate of the First Class
171 E	Bribery						
171 F	Undue influ- ence and per- sonation at an election.	Do	Do	Do	Do	Imprisonment of either des- cription for one year, or fine or both	Do
171 G.	False state- ment in con- nection with an election	Do	Do.	Do	Do	Fine .	Do
171 H	Illegal pay- ments in con- nection with elections	Do	Do	Do	Do	Fine of 500 rupees	Do
171 I	Failure to keep election ac- counts.	Do	Do	Do	Do	Fine of 500 rupees.	Do

PART II.

ELECTION ENQUIRIES AND OTHER MATTERS

Definitions.

4 In this Part, unless there is anything repugnant in the subject or context,—

(a) "costs" means all costs, charges and expenses of, or incidental to, an inquiry;

(b) "election" means an election to either chamber of the Indian legislature or to a Legislative Council constituted under the Government of India Act;

(c) "inquiry" means an inquiry in respect of an election by Commissioners appointed for that purpose by the Governor-General, Governor or Lieutenant-Governor,

(d) "pleader" means any person entitled to appear and plead for another in a Civil Court, and includes an advocate, a vakil, and an attorney of a High Court,

5. Commissioners appointed to hold an inquiry shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908,* when trying a suit in respect of the following matters :—

(a) discovery and inspection,

(b) enforcing the attendance of witnesses, and requiring the deposit of their expenses,

(c) compelling the production of documents,

(d) examining witnesses on oath,

* Act V of 1908.

(e) granting adjournments,

(f) reception of evidence taken on affidavit and

(g) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to them to be material, and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.*

Explanation — For the purposes of enforcing the attendance of witnesses, the local limits of the Commissioner's jurisdiction shall be the limits of the Province in which the election was held.

6 The provisions of the Indian Evidence Act, 1872, † shall, subject to the provisions of this Act, be deemed to apply in all respects to an inquiry.

Application of Act 1 of 1872 to inquiries.

7. Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered

8. (1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in an inquiry upon the ground that the answer to such question will criminate or may tend, directly or indirectly, to criminate him; or that it will expose, or tend, directly or indirectly to expose him to a penalty or forfeiture of any kind.

Obligation of witness to answer and certificate of indemnity.

Provided that—

(i) no person who has voted at an election shall be required to state for whom he has voted, and

(ii) a witness who, in the opinion of the Commissioners, has answered truly all questions which he has been required by them to answer shall be entitled to receive a certificate of indemnity, and such certificate may be pleaded by such person in any Court and shall be deemed to be a full and complete defence to or upon any charge under Chapter IXA of the Indian Penal Code arising out of the matter to which such certificate relates, nor shall any such answer be admissible in evidence against him in any suit or other proceeding.

(2) Nothing in sub-section (1) shall be deemed to relieve a person receiving a certificate of indemnity from any disqualification in connection with an election imposed by any law or any rule having the force of law.

9 Any appearance, application or act before the Commissioners may be made or done by the party in person or by a pleader duly appointed to act on his behalf.

Appearance by pleader

Provided that any such appearance shall, if the Commissioners so direct, be made by the party in person.

* Act V of 1898.

† Act I of 1872.

10. The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Commissioners to such person, and shall, unless the Commissioners otherwise direct, be deemed to be part of the costs

11. (1) Costs shall be in the discretion of the Commissioners, and the Commissioners shall have full power to determine by and to whom and to what extent such costs are to be paid and to include in their report all necessary recommendations for the purposes aforesaid. The Commissioners may allow interest on costs at a rate not exceeding six per cent. per annum, and such interest shall be added to the costs

2) The fees payable by a party in respect of fees of his adversary's pleader shall be such fees as the Commissioners may allow.

12. Any order made by the Governor-General or Governor or Lieutenant-Governor on the report of the Commissioners regarding the costs of the inquiry may be produced before the principal Civil Court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, or, where such place is within the local limits of the ordinary original civil jurisdiction of a chartered High Court, before the Court of Small Causes having jurisdiction there and such Court shall execute such order or cause it to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

13. Any person who has been convicted of an offence under section 171-E or 171-F. of the Indian Penal Code* or has been disqualified from exercising any electoral right, for a period of not less than five years, on account of malpractices in connection with an election shall be disqualified for five years from the date of such conviction or disqualification from—

(a) being appointed to or acting in, any judicial office ;

(b) being elected to any office of any local authority when the appointment to such office is by election, or holding or exercising any such office to which no salary is attached ;

(c) being elected or sitting or voting as a member of any local authority ; or

(d) being appointed or acting as a trustee of a public trust,

Provided that the Governor General, in the case of an election to the Council of State or the Legislative Assembly, and the Governor or the Lieutenant-Governor, in the case of an election to his Legislative Council, may exempt any such person from such disqualification

14 (1) Every officer, clerk, agent or other person who performs any duties in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who wilfully acts in contravention of the provisions of this section shall be punished with imprisonment of either description for a term not exceeding three months or with fine, or with both.

* Act XLV of 1860.

ACT NO. XL. OF 1920

The Aligarh Muslim University Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 14th September, 1920.

An Act to establish and incorporate a teaching and residential Muslim University at Aligarh

Whereas it is expedient to establish and incorporate a teaching and residential Muslim University at Aligarh, and to dissolve the Societies registered under the Societies' Registration Act, 1860* which are respectively known as the Muhammadan Anglo Oriental College, Aligarh, and the Muslim University Association, and to transfer to and vest in the said University all properties and rights of the said Societies and of the Muslim University Foundation Committee ;

It is hereby enacted as follows :—

Short title and commencement. 1. (1) This Act may be called the Aligarh Muslim University Act, 1920.

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, appoint.

Definitions, 2. In this Act, and in all Statutes made hereunder, unless there is anything repugnant in the subject or context :—

- (a) "Academic Council" means the Academic Council of the University ;
- (b) "Court" means the Court of the University ;
- (c) "Executive Council", means the Executive Council of the University ;
- (d) "Hall" means a unit of residence for students of the University, provided or maintained by the University ;
- (e) "registered graduates" means graduates registered under the provisions of this Act ;
- (f) "Statutes," "Ordinances" and "Regulations" mean, respectively the Statutes, Ordinances and Regulations of the University for the time being in force ,

* Act XXI, of 1860.

(g) "teachers" means Professors, Readers, Lecturers, Demonstrators and such other persons as may be appointed for imparting instruction in the University or a Hall ; and

(h) "University" means the Aligarh Muslim University,

The University.

3. The First Chancellor, Pro-Chancellor and Vice-Chancellor who shall be the persons appointed in this behalf by a notification of the Governor-General in Council in the *Gazette of India*, and the persons specified in the Schedule as the first members of the Court and all persons, who may hereafter become, or be appointed as, such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of the Aligarh Muslim University, and shall have perpetual succession and a Common Seal and shall sue and be sued by that name.

4. From the commencement of this Act—

(i) The Societies known as the Muhammadan Anglo-Oriental College, Aligarh, and the Muslim University Association shall be dissolved, and all property, moveable and immoveable, and all rights, powers and privileges of the said Societies and all property, moveable, and immoveable, and all rights, powers and privileges of the Muslim University shall be transferred to and vest in the University and shall be applied to the objects and purposes for which the University is incorporated ;

(ii) all debts, liabilities and obligations of the said Societies and Committee shall be transferred to the University and shall thereafter be discharged and satisfied by it ;

(iii) all references in any enactment to either of the said Societies or to the Committee shall be construed as references to the University ;

(iv) any will, deed or other document, whether made or executed before or after the commencement of this Act, which contains any bequest, gift or trust in favour either of the said Societies or the said Committee shall, on the commencement of this Act, be construed as if the University was therein named instead of such Society or Committee ;

(v) subject to any orders which the Court may make, the buildings which belonged to the Muhammadan Anglo-Oriental College, Aligarh, shall continue to be known and designated by the names and styles by which they were known and designated immediately before the commencement of this Act ;

(vi) subject to the provisions of this Act, every person employed immediately before the commencement of this Act in the Muhammadan Anglo-Oriental College, Aligarh, shall hold employment in the University on the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity as he would have held the same under the Muhammadan Anglo-Oriental College, Aligarh, if this Act had not been passed.

Powers of the University. 5. The University shall have the following powers, namely :—

(1) to provide for instruction in such branches of learning as the University may think fit and to make provision for research and for the advancement and dissemination of knowledge ;

(2) to promote Oriental and Islamic studies and give instruction in Muslim theology and religion and to impart moral and physical training ;

(3) to hold examinations and to grant and confer degrees and other academic distinctions to and on persons who—

(a) shall have pursued a course of study in the University, or

(b) are teachers in educational institutions, under conditions laid down in the Statutes and Ordinances and shall have passed the examinations of the University under like conditions ;

(4) To confer honorary degrees or other distinctions on approved persons in the manner laid down in the Statutes ,

(5) To grant such diplomas to and to provide such lectures and instruction for persons not being members of the University as the University may determine ,

(6) To co-operate with other Universities and authorities in such manner and for such purposes as the University may determine ,

(7) To institute Professorships, Readerships, Lectureships and any other teaching posts required by the University. and to appoint persons to such Professorships, Readerships, Lectureships and posts ;

(8) To institute and award Fellowships (including Travelling Fellowships) Scholarships, Exhibitions and Prizes in accordance with the Statutes and the Ordinances ,

(9) To institute and maintain Halls for the residence of students of the University ,

(10) To demand and receive such fees and other charges as may be prescribed by the Ordinances ;

(11) To supervise and control the residence and discipline of students of the University and to make arrangements for promoting their health ; and

(12) To do all such other acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the object of the University as a teaching and examining body to cultivate and promote arts, science and other branches of learning, including professional studies, technology, Islamic learning and Muslim theology and to promote the interests of its students.

6. The degrees, diplomas and other academic distinctions granted or conferred to or on persons by the University shall be recognised by the Government as are the corresponding degrees, diplomas and other academic distinctions granted by any other University incorporated under any enactment.

7 The University shall invest and keep invested in securities in which trust funds may be invested in accordance with the law for the time being in force relating to trusts in British India a sum of thirty lakhs of rupees as a permanent Reserve funds.

endowment to meet the recurring charges of the University other than charge in respect of Fellowships, Scholarships, Prizes and rewards :

Provided that—

(1) Any Government securities as defined in the Indian Securities Act, 1920,* which may be held by the University shall, for the purposes of this section, be reckoned at their face value, and

(2) the aforesaid sum of thirty lakhs shall be reduced by such sums as at the commencement of this Act, the Governor-General in Council shall, by order in writing declare to be the total capitalised value, for the purpose of this section—

(a) of all permanent recurring grants of money which have been made either to the Muhammadan Anglo-Oriental College, Aligarh, the Muslim University Association or the Muslim University Foundation Committee, by any Ruler of a State in India, and

(b) of the total income accruing from immovable property (not being land or buildings, in the occupation and use of the said College) which by the operation of this Act has been transferred to the University.

8. The university shall, subject to the provisions of this Act and the Ordinances, be open to all persons of either sex and of the whatever race, creed or class.

University open to all
races creeds and classes.

Provided that special provision may be made by the Ordinances exempting women from attending at public lectures and tutorial classes and prescribing for them special courses of study.

9. The Court shall have power to make Statutes providing that Religious instruction, instruction in the Muslim religion shall be compulsory in the case of Muslim students.

10. Every student of the University shall reside either in a Hall or under such conditions as may be prescribed by the Ordinances.

11. (1) All recognised teaching in connection with the University courses shall be conducted by and in the name of the University and shall include lecturing, laboratory work and other teaching conducted in the University by the teachers thereof in accordance with any syllabus prescribed by Regulations.

Teaching of the Univer-
sity,

(2) Recognised teaching shall also include tutorial instruction given in the University or, under the control of the University, in Halls : provided that every student not residing in a Hall shall be attached to a Hall for such tutorial instruction and disciplinary supervision and for such other other purposes as may be prescribed by the Ordinances

(3) The authorities responsible for organising such teaching shall be prescribed by the Statutes.

(4) The courses shall be prescribed by the Ordinances.

* Act X of 1920.

12. (1) The University shall, subject to the Statutes, have power to establish and maintain Intermediate colleges and schools, within such limits in the Aligarh District as may be laid down in the Ordinances, for the purpose of preparing students for admission to the University and may provide for instruction in the Muslim religion and theology in any such colleges and schools.

(2) With the approval of the Academic Council and the sanction of the Governor-General in Council on the recommendation of the Visiting Board and subject to such conditions as may be prescribed by the Statutes and the Ordinances, the University may admit Intermediate colleges and schools in the Aligarh District to such privileges of the University as it thinks fit.

The Lord Rector.

The Lord Rector, 13. (1) The Governor-General shall be the Lord Rector of the University.

(2) The Lord Rector shall have the right to cause an inspection, to be made by such person or persons as he may direct, of the University, its buildings, laboratories, and equipment, and of any institution maintained by the University, and also of the examinations, teaching and other work conducted or done by the University, and to cause an enquiry to be made, in like manner in respect of any matter connected with the University. The Lord Rector shall in every case give notice to the University of his intention to cause an inspection or enquiry to be made and the University shall be entitled to be represented thereat.

(3) The Lord Rector may address the Vice-Chancellor with reference to the result of such inspection and enquiry and the Vice-Chancellor shall communicate to the Court the views of the Lord Rector with such advice as the Lord Rector may be pleased to offer upon the action to be taken thereon.

(4) The Court shall communicate through the Vice Chancellor to the Lord Rector such action, if any, as it is proposed to take or has been taken upon the result of such inspection or enquiry.

(5) Where the Court does not, within reasonable time, take action to the satisfaction of the Lord Rector, the Lord Rector may, after considering any explanation furnished or representation made by the Court issue such directions as he may think fit and the Court shall comply with such directions.

The Visiting Board.

14. (1) The Visiting Board of the university, if and when the United Provinces of Agra and Oudh become a Governor's Province within the meaning of the Government of India Act, shall consist of the Governor thereof, the members of the Executive Council, the Ministers, one member nominated by the Governor and one member nominated by the Minister in charge of Education.

Provided that until a Governor's Province is so constituted, the Lieutenant Governor of the said Provinces shall discharge and perform the duties of the Visiting Board.

(2) The Visiting Board shall have the right through any of its members to inspect the University and to satisfy itself that the proceedings of the University are in conformity with the Act, Statutes, and Ordinances. The Visiting Board shall in every case give notice to the University of its intention to inspect and the University shall be entitled to be represented at such inspection.

(3) The Visiting Board may, by order in writing, annul any proceedings not in conformity with the Act Statutes, and Ordinances, provided that before making any such order the Board shall call upon the University to show cause why such order should not be made, and if any cause is shown within reasonable time, shall consider the same

Rectors

Rector. 15. The persons specified in the Statutes shall be the Rectors of the University.

Officers of the University

Officers of the University 16 The following shall be officers of the University —

- (1) The Chancellor,
- (2) The Pro-Chancellor,
- (3) The Vice Chancellor,
- (4) The Pro-Vice-Chancellor, and
- (5) Such other officers as may be declared by the Statutes to be officers of the University.

The Chancellor. 17. (1) The successors to the first Chancellor shall be elected by the court

(2) The Chancellor shall hold office for three years

(3) The Chancellor shall, by Virtue of his office, be the head of the University.

(4) The Chancellor shall, if present, preside at Convocations of the University held for conferring degrees and at meetings of the Court.

(5) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

The Pro-Chancellor. 18 (1) The successors to the first Pro-Chancellor shall be elected by the Court.

(2) The Pro-Chancellor shall hold office for three years.

(3) Casual vacancies in the office of the Pro-Chancellor shall be filled by the Chancellor on the recommendation of the Executive Council. The person so appointed shall hold office till the next annual meeting of the Court.

(4) The Pro-Chancellor shall, in absence of the Chancellor, exercise the functions of the Chancellor.

19. (1) The successors to the first Vice-Chancellor shall be elected by the Court from among its members. Every such election shall be subject to the approval of the Governor-General in Council.

The Vice Chancellor,

(2) The Vice Chancellor shall exercise such powers and perform such functions as may be prescribed by the Statutes

The Pro Vice-Chancellor. 20. (1) The Pro-Vice-Chancellor shall be appointed by the Court.

(2) He shall hold office for such term and with such powers and subject to such conditions as may be prescribed by the Statutes.

21 The powers of officers of the University other than the Chancellor the Pro-Chancellor, the Vice Chancellor Other Officers, the Pro Vice Chancellor shall be prescribed by the Statutes and the Ordinances

Authorities of the University

Authorities of the University,

22. The following shall be the authorities of the University

- (1) The Court,
- (1) The Executive Council.
- (3) The Academic Council,
- (4) Such other authorities as may be declared by the Statutes to be authorities of the University.

23. (1) The Court shall consist of the Chancellor, the Pro Chancellor and the Vice-Chancellor for the time being, The Court, such other persons as may be specified in the Statutes.

Provided that no person other than a Muslim shall be a member thereof

(2) The Court shall be the supreme governing body of the University and shall exercise all the powers of the University not otherwise provided for by this Act the Statutes, the Ordinances and the Regulations. It shall have power to review the acts of the Executive and the Academic Councils (save where such Councils have acted in accordance with powers conferred on them under this Act, the Statutes or the Ordinances) and direct that necessary action be taken by the Executive or the Academic Council, as the case may be, on any recommendations of the Lord Rector.

(3) Subject to the provisions of this Act, the Court shall exercise the following powers and perform the following duties, namely —

- (a) of making Statutes and of amending or repealing the same ;
- (b) of considering Ordinances ,
- (c) of considering and passing resolutions on the annual report, the annual accounts and the financial estimates ,
- (d) of electing such persons to serve on authorities of the University and of appointing such officers as may be prescribed by this Act or the Statutes, and.
- (e) of exercising such other powers and performing such other duties as may be conferred or imposed upon it by this Act or the Statutes

* 24. The Executive Council shall be the executive body of the University, its constitution and the term of office of The Executive Council, its members and its powers and duties shall be prescribed by the Statutes.

* Certain figures after this repealed by, Act, of 1924 have been omitted.

25 (1) The Academic Council shall be the academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation of, and be responsible for the maintenance of standards of instruction, and for the education, examination, discipline and health of students, and for the conferment of degrees (other than honorary).

(2) The constitution of the Academic Council and the term of office of its members and its powers and duties shall be prescribed by the Statutes.

26. The constitution, powers and duties of such other authorities as may be declared by the Statutes to be authorities to the University, shall be prescribed by the Statutes.

Statutes, Ordinances and Regulations.

27 Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely :—

- (a) The conferment of honorary degrees and the appointment of Rectors ,
- (b) The institution of Fellowships, Scholarships, Exhibitions, Medals and Prizes ,
- (c) The terms of office, and the method and conditions of appointment of the officers of the University ,
- (d) The designations and powers of officers of the University ;
- (e) The constitution, powers and duties of the authorities of the University ,
- (f) The classification and mode of appointment of teachers of the University ;
- (g) The institution and maintenance of Halls ,
- (h) The constitution of Provident and Pension Funds for the benefit of the officers, teachers and servants of the University
- (i) The maintenance of a register of registered graduates ,
- (j) The instruction of Muslim students in the Muslim religion and theology ;
- (k) The establishment of Intermediate colleges and schools ; and
- (l) All matters which by this Act are to be or may be prescribed by Statutes.

28 (1) The first Statutes are those set out in the Schedule.

(2) The first Statutes may be amended, repealed or added to by Statutes made by the Court in the following manner :—

- (a) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court. Such draft shall be considered by the Court at its next meeting. The Court may approve such draft and pass the Statute or may reject it or return it to the Executive Council for reconsideration

either in whole or in part together with any amendments which the Court may suggest.

- (d) The Executive Council shall not propose the draft of any Statute affecting the status, powers or constitution of any existing authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal. Any opinion so expressed shall be in writing and shall be considered by the Court
- (e) No new Statute or amendment or repeal of an existing Statute shall have any validity until it has been submitted through the Visiting Board (which may record its opinion thereon to the Governor General in Council, and has been approved by the latter, who may sanction, disallow or remit it for further consideration ,

Provided that no Statute dealing with the instruction of Muslim students in the Muslim religion and theology shall require to be so submitted or approved.

29. Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely :—

Power to make Ordinances

- (a) The courses of study to be laid down for all degrees and diplomas of the University
- (b) The conditions of the award of Fellowships, Scholarships, Exhibitions, Medals and Prizes .
- (c) The conditions under which students may be admitted to the degree or diploma courses and to the examinations of the University and shall be eligible for degrees and diplomas !
- (d) The admission of students to the University ,
- (e) The terms of office and terms and manner of appointment and the duties of Examining Bodies, Examiners, and Moderators and the conduct of examinations ;
- (f) The conditions of residence of students of the University, and the levying of fees for residence in Halls and of other charges ;
- (g) The conditions under which women may be exempted from attendance at lectures and tutorial classes and the prescription for them of special courses of study ;
- (h) The fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University ,
- (i) The maintenance of discipline among the students of the University ;
- (j) The management of any Intermediate colleges or schools maintained by the University and the supervision of any Intermediate colleges and schools admitted to privileges under section 12 : and
- (k) All matters which by this Act or the Statutes are to be or may be provided for by Ordinances.

Ordinances.

30 (1) The Executive Council or, in academic matters, the Academic Council may make Ordinances.

(2) The first Ordinances shall be framed as directed by the Governor-General in Council and shall receive such previous approval as he may direct.

(3) No new Ordinance, or amendment or repeal of an existing Ordinance, shall have any validity until it has been submitted through the Court and the Visiting Board, (which may record its opinion thereon) to the Governor General in Council, and has obtained the approval of the latter, who may sanction, disallow or remit it for further consideration.

(4) If any question arises between the Executive and the Academic Council as to which has the power to make an Ordinance either Council may represent the matter to the Visiting Board, who shall refer the same to a tribunal consisting of three members, one of whom shall be nominated by the Executive Council, one by the Academic Council, and one shall be a Judge of a High Court nominated by the Lord Rector.

Regulations
31 (1) The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances—

(a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum ;

(b) providing for all matters which, by this Act, the Statutes or the Ordinances, are to be prescribed by Regulations, and

(c) providing for all other matters solely concerning such authorities or committees appointed by them not provided for by this Act, the Statutes and the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

Admission and Examinations.

32. (1) Admission of students to the University shall be made by an Admission Committee consisting of the Pro-Vice-Chancellor, the Principal of an Intermediate College who shall be selected by the Vice-Chancellor and such other persons as may be appointed by the Academic Council.

(2) Students shall not be eligible for admission to a course of study for a degree unless they have passed the Intermediate Examination of an Indian University incorporated by any law for the time being in force or an examination recognised in accordance with the provisions of this section as equivalent to the Intermediate Examination and possess such further qualifications as may be prescribed by the Ordinances.

(3) The conditions under which students may be admitted to the diploma courses of the University shall be prescribed by the Ordinances.

(4) The University shall not, save with the previous sanction of the Governor-general in Council, recognise (for the purpose of admission to a course of study for a degree) as equivalent to its own degrees, any degree conferred by any other University or as equivalent to the Intermediate Examination of an Indian University, any examination conducted by any other authority.

(5) Notwithstanding anything contained in this Act or the Ordinances any student of the Muhammadan Anglo Oriental College, Aligarh, who immediately before the commencement of this Act was studying for any examination of the Allahabad University higher than the Intermediate Examination shall be permitted to complete his course in preparation thereof. The University shall provide for such students instruction in accordance with the prospectus of studies of the Allahabad University and, notwithstanding anything contained in the Indian University Act, 1904,* any such students may be admitted to the examinations of that University during a period not exceeding four years from the commencement of this Act.

33. (1) All arrangements for the conduct of examinations shall be made and all examiners shall be appointed by Examinations Academic Council in such manner as may be prescribed by the Ordinances

(2) At least one examiner who is not a member or a teacher of the University shall be appointed for each subject in a Department of Studies forming part of the course which is required for a University degree :

(3) The Academic Council shall appoint Examination Committees consisting of members of its own body or of other persons or of both as it thinks fit to moderate examination questions, to prepare the results of the examinations and report such results to the Executive Council for publication.

Annual Report and Accounts.

34. The annual report of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Court on or before such date as may be prescribed by the Statutes and shall be considered by the Court at its annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action thereon as it thinks fit.

35. (1) The annual accounts and balance sheet of the University shall be prepared under the direction of the Executive Annual accounts. Council and shall once at least every year and at intervals of not more than fifteen months be audited by auditors appointed by the Visiting Board

(2) The annual accounts when audited shall be published in the *Gazette of India* and in the local official Gazette and a copy of the accounts together with the auditor's report shall be submitted through the Visiting Board to the Lord Rector.

*Act VIII, of 1904.

(3) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting and the Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action thereon as it thinks fit.

Supplementary Provisions.

36. (1) Every salaried officer and teacher of the University shall be appointed on a written contract, which shall be lodged with the University and a copy of which shall be furnished to the officer or teacher concerned.

Conditions of service of officers and teachers.

(2) Any dispute arising out of a contract between the University and any of its officers or teachers, shall, at the request of the officer or teacher concerned, be referred to a tribunal of arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned and an umpire appointed by the Visiting Board. The decision of the tribunal shall be final and no suit shall lie in any Civil Court in respect of the matters decided by the tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Indian Arbitration Act, 1899,* and all the provisions of that Act, with the exception of section 2 thereof, shall apply accordingly.

37. (1) The University shall constitute for the benefits of its officers, teachers and servants such Provident and Pension Funds as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

Provident and Pension Funds

(2) Where such Provident or Pension Fund has been so constituted, the Governor-General in Council may declare that the provisions of the Provident Funds Act, 1897,† shall apply to such Fund, as if it were a Government Provident Fund.

38. (1) Subject to any provision in this Act and in the Statutes, the Executive Council shall appoint persons to fill casual vacancies in the offices of Vice-Chancellor and Pro-Vice-Chancellor. Persons so appointed shall hold office till the next meeting of the Court.

Filling of casual vacancies

(2) Subject to the provisions of sub section (3) of section (18) other casual vacancies in any office of any authority shall be filled up by the authority which has power to appoint to the office or authority; provided that when the Court is the appointing authority the casual vacancy shall be filled by the Executive Council and the person so appointed shall hold office till the next meeting of the Court.

Proceedings of University Authorities not invalidated by vacancies.

39. No act or proceeding of any authority of the University shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

* Act IX, of 1899.

† Act X of 1897.

40. (1) If any difficulty arises with respect to the establishment of the University or any authority of the University or in connection with the first meeting of any authority of the University, the Governor-General in Council may by order make any appointment or do anything which appears to him necessary or expedient for the proper establishment of the University or any authority thereof or for the first meeting of any authority of the University

(2) Any such order may modify the provisions of this Act and the Statutes so far as may appear to the Governor General in Council to be necessary or expedient for carrying the order into effect.

THE SCHEDULE.

FIRST STATUTES OF THE UNIVERSITY

See Section 28

Rectors. 1. 1 The following persons shall be Rectors of the University, namely :—

- (1) all Heads of Local Governments ;
- (2) such Rulers of states in India, Princes, and other persons as the Lord Rector may, of his own motion or on the recommendation of the Court, appoint.

(2) The Chancellor may also, on the recommendation of the Academic Council, appoint persons of eminent position or attainments to be Rectors

The Vice-Chancellor. 2. The Vice-Chancellor shall hold office for three years and shall be eligible for re-election.

3 (1) The Vice Chancellor shall take rank in the University next to the Chancellor and the Pro Chancellor, and shall be *ex officio* Chairman of the Executive Council and the Academic Council and in the absence of the Chancellor and the Pro-Chancellor, shall preside at Convocations of the University held for conferring degrees and at meetings of the Court.

(2) It shall be the duty of the Vice-Chancellor to see that the Act, the statutes, the Ordinances and the Regulations are duly observed and he shall have all powers necessary for that purpose.

(3) He shall have the power of convening meeting of the Court and the Executive Council and shall perform all such acts as may be necessary to carry out or further the provisions of the Act, the Statutes and the Ordinances.

(4) If any emergency arises in which in his opinion immediate action should be taken, he shall take such action as he deems necessary and report the fact to the authority which in the ordinary course would have dealt with the matter.

(5) He shall be the sole medium of communication between the University and the following authorities, namely the Governor-General, in Council, the Lord Rector and the Visiting Board

4. (1) The Pro-Vice-Chancellor shall be the principal academic officer of the University and shall be a whole-time salaried officer thereof.

(2) He shall be an *ex officio* member of the Executive Council and the Academic Council and in the absence of the Vice-Chancellor, shall preside at meetings of the Academic Council. He shall also have power to convene meetings of the Academic Council

(3) He shall hold office for five years and be eligible for re-appointment.

5 (1) The Treasurer shall be appointed by the Court on such conditions and for such period as the Court may think fit.

(2) He shall exercise general supervision over the funds of the University and advise in regard to its financial policy

(3) He shall be an *ex officio* member of the Executive Council and shall, subject to the control of the Executive Council, manage the property and investments of the University. He shall be responsible for the presentation of the annual estimates and accounts.

(4) Subject to the powers of the Executive Council, he shall be responsible for seeing that all moneys are expended on the purposes for which they are granted or allotted.

(5) He shall exercise such other powers as may be prescribed by the Ordinances.

6. (1) The Registrar shall be a whole-time paid officer of the University appointed by the Court.

(2) He shall hold office for five years and shall be eligible for re-appointment

(3) The Registrar shall—

(a) be the custodian of the records, the seal and such other property of the University as is committed to his charge,

(b) keep and maintain the register of registered graduates,

(c) attend and act as Secretary at meetings of the Executive and Academic Council and if deemed necessary of the Departments of Studies and any committees appointed by such bodies, and to keep the minutes thereof.

(d) under the superintendence of the Academic Council and the Examination Committees arrange for and superintend the Examinations of the University and,

(e) perform such other duties as may from time to time be prescribed by the Ordinances and Regulations.

7. (1) The following officers shall be appointed by the Executive Council on the recommendation of the Academic Council,—
The Proctor and Librarian,

- (i) A Proctor for the maintenance of the discipline of the students of the University ;
- (ii) A Librarian for the University Library
- (2) The Academic Council may delegate to the Proctor such of its powers as regards discipline as it thinks fit
- 8. The Court shall, subject to provisions hereinafter contained, consist of the following members .—

The Court

Class I.—*Ex-Officio members.*

The Chancellor, the Pro-Chancellor and the Vice-Chancellor for the time being shall be *Ex-Officio* Members.

Class II —*Foundation Members.*

The persons named in the Annexure to this Schedule shall be Foundation Members.

Class III.—*Life Members.*

Every person who has contributed to the Muhammadan Anglo-Oriental College, Aligarh, the Muslim University Association or the Muslim University Foundation Committee a donation of one lakh of rupees or upwards or has transferred property of like value to any of the said institutions and all persons who shall hereafter make such a donation or transfer shall be a Life Member.

Class IV.—*Ordinary Members.*

Ordinary members shall be persons elected or appointed as follows :—

(1) Ten persons to represent such States in India as have contributed, or shall contribute one lakh of rupees and upwards, together with a permanent recurring grant, to or for the purposes of the University, who shall be nominated by such States.

(2) Sixty persons to be elected by persons who have made or shall make donations of five hundred rupees and upwards to or for the purposes of the University

(3) Forty persons to be elected by the registered graduates of the University, of whom not less than twenty shall for the first fifteen years after the commencement of this Act be persons who have been educated at the Muhammadan Anglo Oriental College, Aligarh, and are members of an Association recognised for that purpose by the Court.

Persons to be eligible for election under this provision must be registered graduates of not less than ten years' standing

(4) Twenty persons to be elected by the Central Standing Committee of the All-India Muhammadan Educational Conference from among its own members, not less than ten of whom shall be persons who have been engaged for at least five years in teaching :

Provided that no person shall be qualified to vote in more than one electorate under any of the three last preceding clauses

(5) Ten persons to be nominated by the Chancellor.

(6) Thirty-three persons to be elected by the Court, namely,—

(i) nine persons to represent Islamia Colleges and other Muslim Educational institutions not under the control of the University,

(ii) fifteen persons engaged in the learned professions; and

(iii) nine persons learned in the Muslim religion and Oriental studies; and

(7) Fifteen persons to be elected by the Academic Council from among its own members.

9. (1) The members provided for in Classes I, II, III and Clause (1) of Class IV shall be the members of the first Court.
The First Court.

(2) At the first meeting of the Court, which shall be held as soon as may be after the commencement of this Act, the thirty three persons specified in clause (6) of Class IV shall be elected.

(3) The Academic Council shall elect its representatives at its first meeting.

(4) Any member of the Court may be removed by a resolution, passed by a majority consisting of not less than two-thirds of the members of the "Court" to the effect that—

(i) he has become incapable of performing his duties, or

(ii) he has acted against the interests of the University, or

(iii) he has been convicted by a Court of law of what, in the opinion of the Court, is a serious offence.

10. (1) Every Foundation Member of the Court shall, unless his office is previously vacated, hold office for five years from the commencement of this Act.
Retirement of Foundation Members.

(2) At the end of the fifth, sixth, seventh and eighth years after the commencement of this Act as nearly as may be, one-fifth in number of the total number of the Foundation Members remaining at the end of the fifth year, shall in each of these years resign and at the end of the ninth year all the Foundation Members then remaining shall resign.

(3) The order in which the Foundation Members shall resign shall be the reverse order to which their names appear in the Annexure to this Schedule.

(4) A Foundation Member who is required to retire under the provisions of this clause shall be eligible for election as an Ordinary Member in a vacancy occurring after his retirement.

* The word Court has been substituted by Act 7 of 1924.

11. (1) After the fifth and subsequent annual meetings up to the ninth, there shall be annually appointed in accordance with the provisions of clauses (2) to (5) of Class IV the following number of

Ordinary Members :

In clause	(2)	..	12
In clause	(3)	..	8
In clause	(4)	---	4
In clause	(5)	---	2

(2) When an electoral body entitled to elect a member or members fails to do so within the time prescribed, the Court may elect any qualified person or persons of the class from which such electoral body was entitled to elect to be an Ordinary Member.

General provisions as to
Members of the Court.

12. (1) All ordinary Members shall hold office for five years from the date of their election.

(2) Any casual vacancies among the nominated or elected members shall be filled, as soon as conveniently may be, by the person or body who nominated or elected the member whose place has become vacant and the person nominated or elected to such vacancy shall be a member for the residue of the term for which the person in whose place he is nominated or elected was a member

(3) The Executive Council may, subject to the provisions of these Statutes, make rules prescribing the qualifications of the electors, the mode of election and other conditions to which the electors and the elected members shall be subject.

13 (1) The Court shall, on a date to be fixed by the Vice-Chancellor, meet once a year at a meeting to be called the annual meeting of the Court.

(2) The Vice-Chancellor may, whenever he thinks fit, and shall upon requisition in writing signed by not less than thirty members of the Court, convene a special meeting of the Court.

(3) Twenty-five members shall form a quorum.

Powers in respect to
granting and withdrawing
degrees.

14. (1) The Court may, by resolutions passed by a majority of not less than two-thirds of the members present and voting,—

(a) on the recommendation of the Academic Council through the Executive Council, make proposals to the Chancellor for the conferment of honorary degrees ;

(b) on the recommendation of the Executive Council, withdraw any ordinary degree or diploma conferred by the University ;

(c) with the sanction of the Chancellor, withdraw any honorary degree.

(2) In cases of urgency the Chancellor may, on the recommendation of the Executive Council alone, confer an honorary degree.

The Executor Council

15. (1) The Executive Council shall consist of not more than thirty members

(2) The Vice Chancellor, the Pro-Vice-Chancellor, the Principal of an Intermediate College maintained by the University who shall be selected by the Vice Chancellor and the Treasurer shall be *ex-officio* members of the Executive Council.

(3) Six other members shall be elected by the Academic Council and twenty shall be elected by the Court, of whom not less than seven shall be residents of places outside the United Provinces of Agra and Oudh.

(4) Elected members shall hold office for three years, provided that at the second annual meeting of the Court and at the third annual meeting of the Court six of the first members elected by it shall retire by ballot.

(5) Eleven members of the Council shall form a quorum.

(6) The Executive Council may make rules prescribing the mode of election and the conditions to which the elected members shall be subject

16 (1) The Executive Council shall, subject to the control of the Court and to the Act, the Statutes and the Ordinances, administer the revenue and property of the University, regulate the finances, accounts and investments and perform all such duties and such acts as may be necessary for the business of the University.

(2) (a) In particular the Executive Council shall have power to make and vary investments, purchase, accept and sell movable or immovable property, enter into and carry out or cancel contracts and appoint persons to execute and register the same ;

(b) It shall maintain the buildings premises, furniture and apparatus needed for the work of the University ;

(c) It shall grant leave to officers, teachers, and servants in accordance with the Ordinances and Regulations and, subject to the provisions of section 36 of the Act, deal with any grievances of any such officers, teachers or servants ;

(d) It shall maintain a register of donors of the University ,

(e) It shall maintain the University press :

(f) It shall on the recommendation of the Academic Council prescribe the fees and charges payable by students ;

(g) It shall fix the fees and allowances of examiners, moderators and other persons engaged in the University examinations ; and

(h) It shall be the managing body of any Intermediate college or school maintained by the University, and shall supervise any Intermediate colleges and schools admitted to privileges by the University.

The Academic Council.

17. (1) The Academic Council shall consist of the following persons, namely—

(i) The Vice-Chancellor and Pro-Vice Chancellor ;

(ii) The Chairmen of the Departments of Studies ,

(iii) The Librarian and the Proctor ;

- (iv) Two persons elected by the Court ;
 - (v) Two persons nominated by the Visiting Board , and
 - (vi) Five persons co-opted by the other members of the Council, two of whom at least shall be Heads of Halls, two Professors or Readers, and one person not engaged in teaching in the University.
- (2) Eleven members of the Academic Council shall form a quorum.
- (3) Members other than *ex-officio* members shall hold office for three years.

Powers of the Academic Council.

18 (1) The Academic Council shall—

- (i) arrange and supervise the work of education in the University ;
- (ii) recommend to the Executive Council the creation and abolition or posts in the educational and tutorial staff ;
- (iii) subject to conditions imposed by any trust, fix the time, mode and terms of competition for Fellowships, Scholarships, Studentships, Medals and Prizes and award the same ;
- (iv) conduct the examinations and publish the results thereof in the University Gazette ;
- (v) have entire charge of the discipline of the students in the University ,
- (vi) publish and revise lists of prescribed and recommended books, if any, and prescribe syllabuses in consultation with the Departments of Studies ,
- (vii) appoint a library committee with such powers as may be prescribed in the Ordinances ; and
- (viii) publish the University Gazette,

(2) All decisions of the Academic Council as regards matters of discipline of students, syllabuses of studies and the conduct of examinations shall be final, with the exception of those which relate to the Departments of Theology whose proceedings shall be subject to the approval of the Executive Council.

Departments of Studies. 19 (1) There shall be Departments of Studies in the following branches of knowledge :—

- (i) English language and literature,
- (ii) History and Political Science,
- (iii) Economics,
- (iv) Philosophy and Psychology,
- (v) Physics,
- (vi) Chemistry,
- (vii) Mathematics and Astronomy,
- (viii) Geography,
- (ix) Sunni Theology,
- (x) Shia Theology,
- (xi) Islamic Studies,
- (xii) Arabic language and literature,

- (xiii) Persian,
- (xiv) Urdu,
- (xv) Law,

(2) As soon as circumstances permit, there shall also be Departments of Studies in the following branches of knowledge :—

- (i) Education,
- (ii) Botany,
- (iii) Zoology,
- (iv) Agriculture,
- (v) Medicine,
- (vi) Commerce,
- (vii) Technology, and
- (viii) such other departments as the Court, on the recommendation of the Academic Council made through the Executive Council, may institute.

(3) Each Department of Studies shall—

- (a) consist of the teachers in the subject with which the Department is concerned provided that the Pro Vice-Chancellor shall be an *ex officio* member of each Department ;
- (b) have power to co-opt specialists not exceeding two in number, except in the case of the Department of Law, which shall co opt four members two of whom shall be Judges of a High Court ;
- (c) elect from among the Professors and Readers of the department its own Chairman who shall hold office for three years but must resign if at any time he ceases to be a Professor or Reader ,
- (d) recommend to the Academic Council courses and syllabuses of studies and text-books for its subjects, and
- (e) make recommendations to the Academic Council in respect of fellowships, scholarships and studentships, medals and prizes in the subject with which it is concerned.

(4) The Academic Council may assign teachers of cognate subjects to a Department of Study.

20. Subject to the general control of the Court all appointments on the teaching staff shall be made by the Executive Council from a list of persons recommended as suitable therefor by a Committee of Appointment consisting of the Pro-Vice-Chancellor, the Chairman of the Department of Studies concerned and three other persons appointed by the Academic Council. Other appointments, unless otherwise provided for, shall be made by the Executive Council.

21. The register of registered graduates shall, subject to conditions prescribed by the Ordinances contain the names of—

- (1) the graduates of the University , and
- (2) graduates of other Universities who have been educated for at

least two years at the Muhammadan Anglo Oriental College, Aligarh, separately entered therein.

22. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

23. Any authority of the University may appoint such and so many standing or special committees as to it may seem fit and may appoint to them persons who are not members of such authority. Such committees may deal with any subject delegated to them, subject to subsequent confirmation by the authority appointing them

24. Where no provision is made for a president or chairman to preside over a meeting, authority or committee or when the president or chairman so provided for is absent the members present shall elect one of their number to preside at the meeting.

25. Any member of the Court, the Executive Council, the Academic Council or any other University authority or committee may resign by letter addressed to the Vice Chancellor.

26. Every officer of the University and every member of any authority whose term of office or membership has expired shall be eligible for re-appointment or re-election as the case may be.

THE ANNEXURE.

(See Section 8 of the First Statutes.)

Foundation Members of the first Court.

1. The Hon'ble Nawab Mumtaz ud-daula Sir Muhammad Faiyaz Ali Khan, K.C.I.E., K.C.V.O., C.S.I., C.B.E., of Pahasu, Bulandshahr
2. Saiyid Muhammad Mir, Esq., Pleader, Delhi.
3. The Hon'ble Nawab Muhammad Muzammilullah Khan, Khan Bahadur, O.B.E., of Bhikampur, Aligarh
4. The Hon'ble Nawab Muhammad Abdul Majid, C.I.E., Barrister-at Law, Allahabad.
5. The Hon'ble Saiyid Mahomed Ali, Retired District and Sessions Judge, Aligarh.
6. Shams-ul-ulama Saiyid Amjad Ali, M.A., Sadiqpur, Patna
7. Nawab Imadul Mulk Bahadur Saiyid Husain Bilgrami, B.A., C.S.I., Retired Director of Public Instruction, His Exalted Highness the Nizam's Government, Hyderabad State.
8. Maulvi Nizam-uddin Hasan, B.A., B.L., Advocate, Lucknow.

9. Hajī Muhammad Moosa Khan, Dataoli Aligarh.
10. Sahibzada Aftab Ahmad Khan, Barrister-at-law, India Office, London.
11. Muhammad Alaul Hasan, Esq., B. A., Deputy Collector, Bijnor.
12. Khwaja Sajjad Husain, Esq., B.A., Panipat, Karnal.
13. Nawabzada Saiyyid Asbraf ud din Ahamad, Khan Bahadur, Barb, Patna.
14. Sahibzada Sultan Ahmad Khan, M.A., L.L.M., Barrister-at-law, Appeals Member, Gwahor State.
15. The Hon'ble Khwaja Yusuf Shab, Khan Bahadur, C.I.E., Amritsar
16. Nasrullah Khan, Esq Barrister at-Law, Surat
17. Saiyid Zain-ud-din, Khan Bahadur, M.A., Officiating Collector, Mainpuri.
18. Khan Muhammad Aslam Hayat Khan, Esq., Extra Assistant Commissioner, Punjab.
19. Munshi Niaz Muhammad Khan, B. A., Pleader, Jullundur.
20. Maulvi Nazir Ahmed, B.A., L.L.B., Jammu.
21. The Hon'ble Mr Justice Muhammad Rafiq, Barrister-at-Law, High Court, Allahabad.
22. Maulvi Muhammad Badrul Hasan, L.L.B., Retired Sub-Judge, Aligarh
23. Maulvi Muhammad Habibur-Rahaman Khan Sharwani, Hyderabad State.
24. Nawab Fateh Ali Khan Qizilbash, Khan Bahadur, C. I. E., Lahore.
25. Saiyid Ahmed Ali, Esq, M. A., Kamthana, Ujain
26. Saiyid Muhammad Baqar Rizvi, Rampur State
27. Mahammad Abdus Salam Khan, Esq, Rampur State.
28. Hakim Hafiz Muhammad Ajmal Khan, Delhi
29. Qazi Aziz ud-din Ahmad, Khan bahadur, O. B. E., I. S. O., Judicial Secretary Dholpore State.
30. Shaikh Abdul Qadir, Khan Bahadur, B. A. Barrister-at-Law, Lyallpur.
31. Shaikh Abdullah, Esq B. A., LL B. Wakil, Aligarh
32. The Hon'ble Raja Sir Muhammad Tassaduq Rasul Khan K. C. S. I. of Jahangirbad, Bara-Banki.
33. The Hon'ble Raja Sir Muhammad Ali Muhammad, Khan Bahadur, K.C.I.E., of Mahmudabad, Lucknow.
34. Mirza Shujaat Ali Beg, Khan-bahadur, Calcutta.
35. Gbulam Muhammad Munshi, Esq., Barrister at-Law, Rajkote.
36. Shaikh Wahid-ud-din Khan Bahadur, Meerut.
37. Mauvi Abdulla Jan, Ludhiana.
38. The Hon'ble Mian Muhammed Shafi, Khan Bahadur, C.I.E., Member of the Governor-General's Executive Council, Simla.
39. Saiyid Tufail Ahmad, Sub-Registrar, Aligarh
40. Saiyid Nabi-ullah, Esq., Barrister-at-Law, Lucknow.

41. Saiyid Jafar Husain, Khan Bahadur, Lucknow.
42. Nawab Bahadur Nawab Muhammad Abdus Samad, Khan Bahadur, of Talibnagar and Cubbitari, Aligarh.
43. Maulvi Sir Rahim Bakhsh, K. C. I. E., President, Council of Regency, Bhawalpur State
44. The Hon'ble Nawab Saiyid Nawab Ali Chaudhri, Khan Bahadur, C.I.E., Calcutta
45. Muhammad Akbar Nazar Ali Hydari, Esq., B.A., Secretary to H. E. H. the Nizam's Government in the Judicial, Police and General Departments, Hyderabad State.
46. The Hon'ble Mr. Justice Saiyid Muhammad Abdul Raoof, Khan Bahadur, Barrister-at Law High Court, Lahore.
47. Razzaq Bakhsh Qadri, Esq., Barrister-at-Law, Aligarh.
48. Shaikh Ghulam Sadik, Khan Bahadur, Amritsar
49. Yaqub Hasan Esq. Madras
50. Maulvi Naseer Hussain Khan " Khayal, Calcutta.
51. Malik Badr-ud-din Ghulam Husain, Khan Bahadur, Nagpur.
52. Saiyid Muhammad Sharf-ud-din, Esq., Barrister-at-Law, Patna
53. Saiyid Ali Hasan Khan, Lucknow.
54. The Hon'ble Sir Abdul Karim Abdul Shakur Jalam, Kt, C.I.E., Merchant, Burma.
55. Maulvi Muhammad Habib ullah Khan, B.A., Deputy, Collector, Aligarh
56. Munshi Sarfaraz Khan, Sub Registrar Muzaffarnagar.
57. Major Nawabzada Haji Hafiz Muhammad Obeidulla Khan, C.S.I., Commander-in-Chief, Bhopal State Forces, and honorary A -D. C. to H. E. the Victory.
58. The Hon'ble Sir Fazulbhoy Currimbhoy Ebrahim, Kt., C.B.E., Bombay.
59. Nawab Muhammad Ahamad Said Khan, M B E., of Chitari, Bulandshahr.
60. Amir Mustafa Khan, Esq Aligarh
61. The Hon'ble Sir Ibrahim Rahimtoola, Kt., C.I.E., Member of the Governor's Executive council, Bombay.
62. Saiyid Hasan Imam, Esq., Barrister at-Law, Patna.
63. Nawab Sarbulane Jang Bahadur Muhammed Hameed-ullah Khan, Barrister-at-Law, (Retired Chief Justice, Hyderabad State), Allahabad.
64. Ghulam Ahmad Khan Kalam, Esq Coromandel, Kolar Gold Fields.
65. Munshi Muhammad Israr Hasan Khan, Khan Bahadur, C.I.E., Judicial Minister, Bhopal State.
66. Honorary Captain Nawab Malik Muhammad Mubariz Khan Tiwana, C.B.E. of shahpur.
67. Abdul Majid Khwaja, Esq. Barrister-at-Law, Patna
68. Kasim Ali Jirajbhai, Esq., Poona.
69. Haji Muhammad Swabh Khan of Bhikampur, Aligarh.

70. Saiyid Ross Masood, Esq., B. A., Director of Public Instruction, Hyderabad State
71. Ibnī Ahmad, Esq., Barrister-at-Law, Allahabad
72. Maulvi Mohammad Ibrahim, Wazir, Khairpur State
73. Maulvi Siraj Ahmad, M. A Extra Assistant Commissioner, Saugor.
74. The Hon'ble Justice Sir Abd-ur-rahim, Kt. M A, Barrister at Law, High Court, Madras.
75. Saiyid Wazir Hasan, B.A. L L B Officiating Additional Judicial Commissioner, Lucknow
76. Shaukat Ali, Esq., Rampur State.
77. Maulvi Mahammad Yaqoob, Pleader, Moradabad
78. Absarul Haq, Esq., Barrister Law, Sialkot
79. The Hon'ble Nawab Justice Sir Saiyid Shamsul Huda, K C I. E., High Court, Calcutta.
80. Mukhtar Ahmad Ansari, Esq. M D, M S M. R. C S Delhi
81. Muhammad Ali Jinnah, Esq, Barrister-at-Law, Bombay.
82. Mazhar ul Huq, Esq, Barrister-at-Law, Patna
83. Maulvi Muhammad Bashir-ud-din, Khan Bahadur, Etawah
84. The Hon'ble Saiyid Riza Ali B A LL B, Allahabad.
85. Nazir ud-din Hassan. Esq, M A LL D, Sessions Judge, Aurangabad Hyderabad State.
86. Munshi Nisar Husain. Deputy magistrate, Irrigation Department, Aligarh.
87. Shaikh Muhammad Wajith, Deputy Collector, Bulandshahr.
88. Zahoor Ahmad, Esq, Barrister-at-Law, Allahabad.
89. Raja Saiyid Abu Jafar, C.I.E., of Pirpur, Fyzabad.
90. Sir Saiyid Ali Imam, K C S. I., Hyderabad State.
91. The Hon'ble Khan Sir Zulfikar Ali Khan, Kt., C S. I., of Maler Kotla, Lahore,
92. Dr. Said-uz Zafar Khan, M. B. Ch B., D T. M, professor, King George's Medical College, Lucknow
93. Munshi Muhammad Akram Khan. B. A., Deputy Superintendent of police, Gorakhpur.
94. Maulvi Abdul Ahad, Khan Bahadur, Delhi.
95. Hafiz Muhammad Haleem, Khan Bahadur, Cawnpore.
96. Shah Munir Alam, B.A LL B., Sub-Judge, Gorakhpur.
97. Mumtaz Husam, Esq, Barrister-at Law, Lucknow
98. Shamshad Ahmad Khan, Esq. Barrister-at-Law, Aligarh
99. Shaikh Muhammad Musanna, Khan Sahib. B.A., Deputy Collector, Benares.
100. Qazi Makhdum Hussain, Retired Deputy Collector, Shaharanpur.
101. Muhammad Ismail Khan. Esq. Barrister-at-Law, Meerut.
102. The Hon'ble Saiyid Ali Nabi, Khan Bahadur, B.A. LL. B. Agra.
103. Tassaduq Ahmad Khan Sharwani, Esq, Barrister at-law, Aligarh.
104. Abul Hasan, Esq, B A., Inspector of Schools Jhansi.
105. Nawabzada Haji Muhammad Hamidulla Khan, B. A, Chief Secretary to H. H. the Ruler of Bhopal.

106. Munshi Abdul Hamid Khan, Khan Bahadur, Deputy Collector, Bara Banki.
 107. Sir Sahibzada Nawab Abdul Qaiyum, Khan Bahadur, K. C. I. E. Peshawar.
 108. Nawab Nazir Jang Bahadur Mirza Nazir Beg, Military Secretary, H E H. the Nizam's Government, Hyderabad State.
 109. Maulvi Zafar Umar. B A., Deputy Superintendent of Police, Agra.
 110. The Hon'ble Main Fazl-Hussan, Khan Bahadur, M, A., Barrister-Law, Lahore.
 111. Saiyid Sajjad Haider, B A., Deputy Collector, Sultanpure.
 112. Mirza Zulqadr Jang Bahadur M. A. (Cantab), Barrister-at-Law, Lucknow.
 113. Dr Saiyid Mahmud, Barrister-at-Law, Patna
 114. The Hon'ble Maulvi Abul Kasim Fazl ul-Haq, M, A , B L , Vakil, Calcutta.
 115. Maulvi Abdul Haq, B. A , Aurangabad.
 116. Qasim Hussain Esq, and Tallaqdar, Division Bedar, Hyderabad State.
 117. Muazzam Ali Khan, Esq, Barrister-at-Law, Moradabad.
 118. Agha Muhammad Sifdar B, A , LL B, Vakil, Sialkot.
 119. Mian Haq Nowaz B A , LL, B., Lahore
 120. Chaudhri Khushi Muhammad Khan. Revenue Member, Kashmere State.
 121. Babu Nizam-ud din, Amritsar
 122. Said Muhammad Khan, Esq, Khurja, Bulandshahr,
 123. Munshi Muhammad Wajid Ali Khan, Khan Sahib, Judicial Secretary, Bhopal State.
 124. Mahomed Ali, Esq., Rampur State.
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ACT NO. XLI. OF 1920.

The Indian Wireless Telegraphy (Shipping) Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 16th September, 1920

An Act to provide for the installation of Wireless Telegraphy on ships registered in British India and for other purposes.

Whereas it is expedient to provide for the installation of wireless telegraphy on ships registered in British India, and for other purposes, It is hereby enacted as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Indian Wireless Telegraphy (Shipping) Act 1920.

(2) It extends to the whole of British India.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the *Gazette of India*, direct.

Definitions.

2. (1) In this Act unless there is anything repugnant in the subject or context,—

(a) "passenger steamer" means a steamer which carries more than twelve passengers ;

(b) "prescribed" means prescribed by rules made under this Act, and

(c) "registered in British India" means registered in British India under the Merchant Shipping Acts, 1894 to 1916* or under any Act of the Governor-General in Council for the time being in force providing for the registration of ships

(2) All words and expressions used in this Act and defined in the Merchant Shipping Acts, 1894 to 1916,* and not hereinbefore defined, shall be deemed to have the same meanings respectively attributed to them by those Acts

3. (1) Every sea-going British ship registered in British India, being a passenger steamer or a ship of sixteen hundred tons gross tonnage or upwards shall be provided with a wireless telegraph installation of the prescribed description and shall maintain a wireless telegraph service of the prescribed nature and shall be provided with such certificated operators and watchers as may be prescribed :

Provided that the Governor-General in Council may, by notification in the *Gazette of India* exempt from the obligations imposed by this Act any ships or classes of ships if he is of opinion that, having regard to the

* 57 and 58 Vic. c 60.

nature of the voyages on which the ships are engaged, or other circumstances of the case, the provision of a wireless telegraph installation is unnecessary or unreasonable.

(2) If this section is not complied with in the case of any such ship, the master or owner of the ship shall be punishable in respect of each offence with a fine which may extend to one thousand rupees.

4. (1) The Governor-General in Council may appoint officers (hereinafter referred to as wireless telegraphy inspectors) for the purpose of seeing that the requirements of this Act are complied with on board any ship.

Appointment and powers of wireless telegraphy Inspectors

(2) A wireless telegraphy inspector may inspect any ship for the purpose of seeing that she is properly provided with a wireless telegraph installation and certificated operators and watchers in conformity with this Act, and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of this Act, and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Act in respect of the installation, and of the certificates of the operators and watchers on the ship.

(3) If a wireless telegraphy inspector finds that a ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(4) Every notice given under sub-section (3) of this section shall be communicated, in the prescribed manner, to the Chief Officer of Customs of any port at which the ship may seek to obtain port clearance, who shall order that the ship shall be detained until a certificate under the hand of a wireless telegraphy inspector is produced to the effect that the ship is properly provided with a wireless telegraph installation and certificated operators and watchers in conformity with this Act.

5. The provisions of this Act shall, as from a date three months after the commencement of this Act, apply to ships other than British ships registered in India, as they apply to British ships registered in British India in like manner as they apply to British ships registered in British India.

Power to make rules.

6 (1) The Governor-General in Council may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may prescribe—

(a) the nature of the wireless telegraph installation to be provided and of the service to be maintained, and the number, grades and qualifications of certified operators and watchers to be carried :

Provided that no ship shall be required to carry more than one operator, unless more than one operator would have been

required under the provisions of the Merchant Shipping (Convention) Act, 1914 ; *

(b) the manner in which a notice given under sub-section (3) of section 4 shall be communicated to the Chief Officer of Customs.

(3) Rules made under this section shall be published in the *Gazette of India* and shall thereupon have effect as if enacted in this Act.

7. A wireless telegraphy inspector appointed under this Act shall be deemed to be a public servant within the meaning of Indian Penal Code.†

8. No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

Protection to persons acting under Act.

ACT NO. XLII. OF 1920.

The Indian Companies (Amendment) Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 16th September, 1920.

An Act further to amend the Indian Companies Act, 1913.

WHEREAS it is expedient further to amend the Indian Companies Act, 1913 ; * Is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Companies (Amendment) Act, 1920.

Amendment of section 91-B. of Act VII. of 1913.

2. To section 91-B of the Indian Companies Act, 1913,† the following sub-section shall be added, namely :—

“(3) This section shall not apply to a private Company.”

* 4 and 5 Geo. V. c. 80.

† Act XLV. of 1860.

‡ Act VII of 1913.

ACT NO. XLVI OF 1920.

The Cutchi Memons Act, 1920.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 17th September, 1920.

An Act to enable Cutchi Memons to be governed in matters of succession and inheritance by Muhammadan law.

WHEREAS it is expedient to enable those Cutchi Memons who so desire to be governed in matters of succession and inheritance by Muhammadan law, It is hereby enacted as follows :—

Short title. 1 This Act may be called the Cutchi Memons Act, 1920.

2 “(1) Any person who satisfies the prescribed authority :—

Power to make a declaration.	(a) that he is a Cutchi Memon and is the person of whom he represents himself to be ;
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(b) that he is competent to contract within the meaning of section 11 of the Indian Contract Act, 1872 ; and

(c) that he is resident in British India,” *

may by declaration in the prescribed form and filed before the prescribed authority declare that he desires to obtain the benefit of this Act, and thereafter the declarant and all his minor children and their descendants shall in matters of succession and inheritance be governed by the Muhammadan law

“(2) Where the prescribed authority refuses to accept a declaration under sub-section (1) the person desiring to make the same may appeal to such officer as the Local Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same.” *

Rule-making power of Local Governments.	3. (1) The Local Government may make rules to carry into effect the purposes of this Act.
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(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters :—

(a) for prescribing the authority before whom and the form in which declarations under this Act shall be made ;

(b) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act ; and for prescribing the dues at which such fees shall be payable and the number in which they shall be levied.” *

(3)† Rules made under the provisions of this section shall be published in the local official Gazette and shall thereupon have effect as if enacted in this Act.

* The words within quotations have been added by Act 34 of 1923.

† Sub-section (2) has been re-membered sub-section (3).

2. Die nachstehende Tabelle zeigt die durchschnittlichen jährlichen Wachstumsraten der Produktion in den Jahren 1990 bis 1999 für die Länder A, B und C. Die Wachstumsraten sind in Prozent angegeben.

for the transaction of some particular business specified in the notice convening the meeting ;

- (k) "special local resolution" means a resolution passed at a special local meeting ,
- (l) "special meeting" means a meeting of shareholders convened for the transaction of some particular business specified in the notice convening the meeting , and
- (m) "special resolution" means a resolution passed at a special meeting.

CHAPTER I

Establishment and Incorporation of the Imperial Bank of India.

3 (1) A Bank to be called the Imperial Bank of India and in this Act referred to as "the Bank" shall be constituted for the purpose of taking over the undertakings of the Presidency Banks and to carry on the business of banking in accordance with the provisions of this Act

(2) Every person who, immediately before the appointed day, was registered as a shareholder or as a holder of stock in any of the Presidency Banks, together with such other persons as may from time to time become shareholders in the Bank in accordance with the provisions of this Act, shall, as long as they are shareholders in the Bank constitute a body corporate with perpetual succession and a common seal under the name of the Imperial Bank of India and shall sue and be sued in that name.

(3) Subject to the provisions of this Act, the capital of the Bank shall consist of one hundred and twelve millions and five hundred thousand rupees divided into shares of five hundred rupees each.

(4) The liability of the shareholder of the Bank shall be limited to the amount not fully paid up on their shares

CHAPTER II

Transfer of the undertakings of Presidency Banks to the Imperial Bank.

4. (1) Subject to the provisions of this Act, as from the appointed day, the undertakings of each of the Presidency Banks shall be transferred to and shall vest in the Bank.

(2) The undertaking of a Presidency Bank shall be deemed to include all rights, powers, authorities and privileges and all property, moveable or immoveable, including cash balances, reserve funds, investments and all other interests and rights in or arising out of such property as may be in the possession of that Bank immediately before the appointed day, and all books, accounts and documents relating thereto, and

shall also be deemed to include all debts, liabilities and obligations of whatever kind then existing of that Bank.

(3) If, on the appointed day, any suit, appeal or legal proceeding of whatever nature is pending by or against any Presidency Bank the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Bank of the undertaking of such Presidency Bank or of anything in this Act, but the suit, appeal or proceeding may be continued, prosecuted and enforced by or against the Bank.

(4) All contracts, deeds, bonds, agreements and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which any Presidency Bank is a party shall be of as full force and effect against or in favour of the Bank, as the case may be, and may be enforced as fully and effectually as if instead of the Presidency Bank the Bank had been a party thereto.

5. (1) The name of every person who immediately before the appointed day was registered as a shareholder in any of the Presidency Banks shall be registered in accordance with the provisions of this Act hereinafter appearing as holding the same number of shares in the bank as stood in his name in the register of such Presidency Bank.

Terms of transfer as regards shareholders in the Presidency Banks

Provided that, for the purposes of this section two half shares standing in the name of any such person in the register of any Presidency Bank shall be taken as the equivalent of one share, and odd half-shares shall be dealt with as hereinafter provided

(2) The name of every person who immediately before the appointed day was registered as a holder of stock in any of the Presidency Banks shall be registered in accordance with the provisions of this Act hereinafter appearing as holding one share in the Bank for every Rupees five hundred of stock of which he was the registered holder in such Presidency Bank, and odd amounts of stock not amounting to rupees five hundred shall be dealt with as hereinafter provided.

(3) The Bank shall issue fractional certificates to the holders of odd half-shares and of odd amounts of stock, not amounting to Rupees five hundred certifying, as the case may be, that the holder is entitled to one half of one fully paid share or such fraction of a share as the odd amount or stock is of Rupees five hundred.

(4) Holders of fractional certificates shall, if resident in India within three months and in any other case within six months from the date of the certificate either—

(i) surrender their fractional certificates with other similar fractional certificates representing in all one fully paid share in which case the surrender shall be entitled to be registered as a share-holder and to have a fresh certificate for a fully paid share in the Bank issued to him and be entitled to an allotment of new shares in the same way as if he had been the holder of one fully paid share, or

(ii) at their option surrender the fractional certificates to the Bank, in which case the Bank shall be entitled to sell the shares

represented by the fractions so surrendered from time to time in such manner as the Bank deems expedient, and the aggregate net sale proceeds realized by such sale or sales shall be divided proportionately and paid by the Bank to the holders of fractional certificates for whose account the shares may have been so sold

(5) Every shareholder of the Bank whose name has been registered in accordance with the provisions of this section shall be entitled in respect of every share of which he is so registered as the holder to an allotment to himself or to his nominee (provided that such nominee is approved by the Bank) of two shares in the Bank with the sum of Rupees one hundred and twenty-five credited as paid up on payment in respect of each share in the case of a former shareholder or stockholder of the Bank of Bengal or the Bank of Bombay of Rupees one hundred and twenty-five, and of the Bank of Madras of Rupees two hundred and twenty-five.

(6) The Bank shall cause notice to be published in the *Gazette of India* and in two daily papers in each Presidency, and shall also send by post to every person whose name immediately before the appointed day was entered in the register of shareholders or stockholders of any of the Presidency Banks, a notice giving particulars of the terms hereinbefore set out as to the allotment of new shares and the surrender of fractional certificates, and as to the manner and form in which application for the allotment of new shares and the surrender of fractional certificates is to be made.

(7) If within a period of three months from the date of publication in the *Gazette of India* of the notice referred to in sub-section (6), any shareholder has not made an application for the allotment of new shares to which he is entitled, the Bank may offer such shares for public subscription and allot them to any person applying therefor :

Provided that the Bank in the case of shareholders whose addresses are out of British India may, either generally or in any particular instance, fix an extended period for the admission of applications, but in no case shall that period be later than six months from the date of the publication of the notice in the *Gazette of India*

6. (1) Subject to the provisions of this Act, every officer and servant employed immediately before the appointed day by a Presidency Bank shall, from the appointed day become an officer or servant of the Bank, and shall hold his office or service therein by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension or gratuity as he would have held the same under the Presidency Bank if this Act had not been passed.

(2) Any person who, on the appointed day, has been granted or is in receipt of a pension or other superannuation or compassionate allowance from a Presidency Bank shall be entitled to be paid by, and to receive from the Bank the same pension or allowance so long as he observes the conditions on which the pension or allowance was granted. Any question whether he has so observed such conditions shall in case

of any difference arising, be determined by the Governor-General in Council.

(3) For the Directors and officers of the Banks of Bombay and Madras who are at the commencement of this Act the respective trustees of the following funds, that is to say,—

(a) the Bank of the Bombay Officer's Pension and Guarantee Fund, and

(b) the Bank of Madras Pension and Gratuity Fund, and the Bank of Madras Officers' Provident and Mutual Guarantee Fund,

there shall be substituted as trustees of those funds respectively, the members for the time being and the corresponding officers of the Local Boards of the Bank at Bombay and Madras. and if any doubt arises as to who are the corresponding officers to the officers who are trustees at the commencement of this Act, the decision of the Central Board shall be final.

7. As from the appointed day the Presidency Banks shall be dissolved, and thereafter no person shall make, assert or take any claims, demands or proceedings against any of the said Banks or against a director or officer thereof, in his capacity as such director or officer, except, in so far as may be necessary for enforcing the provisions of this Act.

CHAPTER III.

Business of the Bank.

8. Subject to the provisions of this Act, the business which the Bank is authorised to carry on and transact shall be the several kinds of business specified in Schedule I, subject to the limitation therein mentioned.

9. Notwithstanding anything contained in Schedule I, the Bank shall not, at its London office, open cash credits or keep cash accounts for or receive deposits from any person who is not or has not been, within the three years last preceding, a customer of the Bank or of any of the Presidency Banks at any of its of their branches in India or Ceylon.

10. (1) It shall also be lawful for the Bank under any agreement with the Secretary of State for India in Council—

(i) to act as banker for, and to pay, receive, collect and remit money, bullion and securities on behalf of the Government,

(ii) to undertake and transact any other business which the Government may from time to time entrust to the Bank.

(2) Every such agreement shall provide—

(a) that the Governor-General in Council shall have power to issue instructions to the Bank in respect of any matter which, in his

opinion, vitally affects his financial policy or the safety of Government balances, and that, in the event of the Bank disregarding such instructions the Governor-General in Council may declare such agreement to be terminated; and

- (b) that within five years from the commencement of this Act, the Bank shall establish and maintain not less than one hundred new branches, of which at least one fourth shall be established at such places as the Governor-General in Council may direct.

11 For the purpose of providing buildings and places in and at which to carry on and manage the business of the Bank and proper residences for its officers and servants the Bank may—

Acquisition of business premises.

- (a) acquire any interest in immoveable property, and
(b) sell, buy, re sell, exchange, let, furnish, repair, insure against fire and other risks or deal with all or any part of the same as it may consider most conducive to the interests of the Bank

Establishment of branches and agencies,

12. Subject to the provisions of this Act, the Bank may—

- (a) maintain, as branches or agencies of the Bank, any branches or agencies of the Presidency Banks, which were in existence immediately before the appointed day, and may establish branches or agencies at such places as it deems advantageous, for the interests of the Bank, and
(b) discontinue any branch or agency maintained or established under this section.

13. (1) With the sanction of the Governor-General in Council the Bank may enter into negotiations for the purchase and take over the business, including the capital, assets and liabilities, of any banking company carrying on business in India of which the capital is divided into shares, and may pay the consideration for such purchase either in cash or by the allotment of shares in the capital of the Bank, or partly in one and partly in the other of these ways, and may (subject to the provisions of this Act, relating to the increase of capital, for the purpose of any such allotment of shares) increase the capital of the Bank by the issue of such number of shares as may be determined on by the Bank

(2) Any business so purchased shall after the purchase be carried on by the Bank subject to the provisions of this Act.

Explanation—For the purposes of this section “banking company” means any company formed for the purpose of carrying on the business of banking and registered under the Indian Companies Act, 1913,* or the law relating to companies for the time being in force in British India

“13A. Notwithstanding anything contained in Schedule I, the Bank may, either alone or conjointly with other persons, for the purpose of averting the winding up of any company as defined in section 13 having a share capital which is expressed in rupees

Power of Bank to grant loans to certain other Banks.

* Act VII. of 1913.

in its memorandum of association or of any society registered under the Co-operative Societies Act, 1912, or where any such company or society is being wound up, of facilitating the winding up, advance or lend money to, or open a cash credit in favour of, such company or society or the liquidators thereof, as the case may be, for any period upon the security of all or any of the assets whatsoever of such company or society.*

CHAPTER IV.

Shares.

Nature of shares 14. (1) The shares of the Bank shall be moveable property.

(2) Each share in the Bank shall be distinguished by its appropriate number.

15. A certificate under the common or official seal of the Bank specifying the shares held by any shareholder shall be *prima facie* evidence of the title of the shareholder to the shares therein specified.

16. The Bank shall keep in one or more books a register of its shareholders (in this Act referred to as the principal register), and shall enter therein the following particulars so far as they may be available—

(i) the names and addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its number, and of the amount paid on the shares of each shareholder;

(ii) the date on which each person is so entered as a shareholder; and

(iii) the date on which any person ceases to be a shareholder

17. (1) The Bank shall cause to be kept at the local head offices of the Bank in Calcutta, Madras and Bombay branch registers, registers which shall be deemed to be part of the principal register, and may do so at any other local head office which may hereafter be established under this Act.

(2) There shall be entered in the branch register to be kept in Calcutta the name of every person who having been registered as a shareholder or stockholder in the Bank of Bengal is entitled under the provisions of section 5 to be registered as a shareholder in the Bank, with the same particulars appended thereto as are required in the case of the principal register, and the same provisions shall apply *mutatis mutandis* to the branch registers to be kept in Madras and Bombay.

(3) Any shareholder may apply to the Bank to have his name transferred from one branch register to another in respect of either the whole or any part of the shares standing in his name, and the Bank shall, subject to

* Section 13A has been inserted by Act 17 of 1924.

such conditions as may be prescribed, cause the registers to be amended accordingly.

(4) Subject to the provisions of sub section (3) no transaction with respect to any share registered in one branch register shall be registered in any other branch register.

18. No notice of any trust, express, implied or constructive, shall be entered on the principal or any branch register or be receivable by the Bank,
Trusts not to be entered on the register

19. The Bank may close the principal register or any branch register for any time or times, not exceeding in the whole thirty days in each year.
Power to close register,

20 (1) The principal register of shareholders shall be kept a such places as the Bank, by notification in the *Gazette of India*, may appoint and, except when closed under the provisions of this Act, that register or any branch register shall during business hours (subject to such reasonable restrictions as the Bank may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any shareholder gratis
Inspection of register of shareholder.

(2) Any shareholder may require a copy of any such register, or of any part thereof, on prepayment therefor at the rate of six annas for every hundred words or fractional part thereof required to be copied.

Contracts

21 (1) Contracts on behalf of the Bank may be made as follows .—
Form of contracts

(i) any contract, which, if made between private persons, would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Bank in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged ;

(ii) any contract which, if made between private persons would by law be valid although made by parol only, and not reduced to writing, may be made by parol on behalf of the Bank by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made according to the provisions of this section shall be effectual in law, and shall bind the Bank and all other parties thereto and their legal representatives.

Regulations of Bank.

22 The provisions contained in Schedule II shall be the regulations of the Bank in regard to the matters to which they relate.
Regulations of the Bank.

CHAPTER V.

Management.

23. The Bank shall have local head offices in Calcutta, Madras and Bombay, and at such other places in British India as the Bank, with the previous sanction of the Governor General in Council, may determine. The Bank may also, subject to the provisions of this Act as to the business to be transacted there, establish an office in London.

24. The general superintendence of the affairs and business of the Bank shall be entrusted to a Central Board of Governors (hereinafter in this Act referred to as the "Central Board"), who may exercise all powers and do all such acts and things as may be exercised or done by the Bank and are not by this Act expressly directed or required to be done by the Bank in general meeting.

25. Local Boards shall be established at Calcutta, Madras and Bombay, and may be established at such other places in British India as the Central Board, with the previous sanction of the Governor-General in Council, may determine.

26. Without prejudice to the powers conferred by section 24, the Local Boards, established at Calcutta, Madras and Bombay shall have power generally to transact all the usual business of the Bank, and shall have power as regards entries in the branch registers, respectively kept at those places to examine and pass or refuse to pass transfers and transmissions and to approve or refuse to approve transferees of shares and to give certificates of shares.

Local Boards at Calcutta, Madras and Bombay.

27. The several persons who were, immediately before the appointed day, respectively the directors of the Presidency Banks shall constitute the first Local Boards of the Bank at Calcutta, Madras and Bombay, respectively, and the persons who were then president, vice-president and secretary, respectively, of the said Banks shall fill the same offices in the respective Local Boards until they vacate office in accordance with the provisions of this Act.

Central Board.

28. (1) The Central Board shall consist of the following Governors, namely—

- (i) the presidents and vice-presidents of the Local Boards established by this Act ;
- (ii) the Controller of the Currency for the time being or such other officer of Government as may be nominated by the Governor General in Council to be a Governor ;

(iii) such number of persons not exceeding four and not being officers of Government as may be nominated by the Governor-General in Council. Such persons shall hold office for one year but may be re-nominated ;

(iv) the secretaries of the Local Boards established by this Act ;

(v) such number of Managing Governors not exceeding two as may be appointed by the Governor General in Council after consideration of the recommendations of the Central Board. Such Governors shall hold office for such period as the Governor-General in Council may direct ; and

(vi) if any Local Board is hereafter established under this Act, such number of persons to represent it as the Central Board may prescribe.

(2) The Governors specified in clauses (ii) and (iv) and any Governors appointed under clause (vi) of sub-section (1) shall be at liberty to attend all meetings of the Central Board and to take part in its deliberations, but shall not be entitled to vote on any question arising at any meeting.

29. (1) Where the Central Board establishes any additional local head office of the Bank in British India, a Local Board shall be constituted to manage the local business of the Bank.

(2) The number of the members of any such Local Board shall be such number not less than three, as may be prescribed, and shall be appointed in such manner as may be prescribed.

30. (1) If any difficulty arises with respect to the establishment of the Central Board or of a Local Board, or with respect to the appointment of the first Governors or members or to the first meeting of the Central Board or of a Local Board, the Governor-General in Council may by order make any appointment or do anything which appears to him necessary or expedient for the proper establishment of the Board and for the appointment of the first Governors and members and for the first meeting thereof.

(2) Any such order may modify the provisions of this Act so far so may appear to the Governor General in Council to be necessary or expedient for carrying the order into effect

CHAPTER VI.

Miscellaneous

31. (1) The Central Board shall, with the previous approval of the Governor-General in Council, make bye laws consistent with this Act regulating the following matters, namely —

(a) the maximum amounts which may be advanced, or lent to or for which bills may be discounted for any individual or partnership, without the security mentioned in sub clauses

(i) to (iv) of clause (a) of Part I. of Schedule I., the conditions under which advances, may be made on the said security and the extent of the sums to which accounts may be overdrawn without security ,

(b) conditions subject to which alone advances may be made to Governors, members of Local Boards, or officers of the Bank, or the relatives of such Governors, members or officers or to companies, firms or individuals with which or with whom such Governors, members, officers or relatives are connected as partners, directors, managers, servants, shareholders or otherwise :

Provided that the bye-laws shall provide that no advance without security shall be made to any officer of the Bank without the specific sanction of the Local Board under which he is serving ;

(c) the particulars to be contained in the halfyearly balance-sheet ; and

(d) any matter which by this Act is directed to be prescribed.

(2) The Central Board may, with the previous approval of the Governor-General in Council, make bye-laws consistent with this Act regulating the following matters or any of them, namely :—

(a) the keeping of the register and branch registers of shareholders ;

(b) the distribution of business amongst the Governors and their remuneration, if any ;

(c) the distribution of business among the members of a Local Board and their remuneration if any ,

(d) the delegation of any powers of the Central Board or of a Local Board to committees consisting of Governors or members, as the case may be ;

(e) the procedure to be followed at the meetings of the Central, or Local Boards or of any committees thereof ,

(f) the first appointment and the appointment of members of a Local Board established under this Act ;

(g) the powers of Local Boards established by or under this act ,

(h) the localities in, and with respect to which such Local Boards shall exercise their powers ;

(i) the books and accounts to be kept at the local head offices of the Bank ,

(j) the renewal of certificates of shares which have been worn out or lost ,

(k) the conduct and defence of legal proceedings and the manner of signing pleadings :

(l) the constitution and management of pension and provident funds for the officers and servants of the Bank ;

(m) all matters which are by this Act permitted to be prescribed ; and

(n) generally, the conduct of the business of the Bank.

32 (1) The references in sections 188, 189 and 289 of the Indian Companies Act, 1913,* and references in any other enactment to the Presidency Banks or any of them shall be deemed to be references to the Bank.

(2) Where by any instrument power is given to invest in, to hold or to exercise any rights in regard to shares or stock in a Presidency Bank, then that power may be exercised as if the same power were given by such instrument in regard to shares in the Bank.

(3) A Power of attorney in favour of a Presidency Bank or in favour of a Presidency Bank and its officers shall be deemed, as the case may be, to be a power of attorney in favour of the Bank or of the Bank and its officers.

33. In section 11, sub-section (3) of the Indian Companies Act, 1913,* after the word "Royal," the words "Bank of Bengal" "Bank of Madras" "Bank of Bombay" shall be inserted.

Amendment of section 11
(3), Act VII. of 1913.

38 The enactments specified in Schedule III. are hereby repealed.

Repeals.

SCHEDULE I.

(See section 8)

Part I

Business which the Bank is authorised to carry on and transact.

The Bank is authorised to carry on and transact the several kinds of business hereinafter specified, namely :—

- (a) the advancing and lending money, and opening cash-credits upon the security of—
- (i) stocks, funds and securities, (other than immoveable property) in which a trustee is authorized to invest trust money by any Act of Parliament by any Act of the Governor-General in Council and any securities of a Local Government or the Government of Ceylon
- (ii) such securities issued by State-aided railways as have been notified by the Governor-General in Council under section 36 of the Presidency Banks Act 1876, or may be notified by him under this Act in that behalf :
- (iii) debentures or other securities for money issued under the authority of any Act of a legislature established in British India by, or on behalf of a district board ;
- (iv) goods which, or the documents of title to which, are deposited with, or assigned to, the Bank as security for such advances loans or credits ,

* Act VII. of 1913.

- (r) accepted bills of exchange and promissory notes endorsed by the payees and joint and several promissory notes of two or more persons or firms unconnected with each other in general partnership, and
- (r2) fully paid shares and debentures of companies with limited liability, or immoveable property or documents of title relating thereto as collateral security only where the original security is one of those specified in sub-clauses (i) to (iv), and if so authorised by any general or special directions of the Central Board, where the original security is of the kind specified in sub-clause (v).

Provided that such advances and loans may be made, if the Central Board thinks fit, to the Secretary of State for India in Council, without any specific security,

- (b) the selling and realisation of the proceeds of sale of any such promissory notes, debentures, stock-receipts, bonds, annuities, stocks, shares, securities or goods which, or the documents of title to which have been deposited with, or assigned to, the Bank as security for such advances, loans or credits, or which are held by the Bank, or over which the Bank is entitled to any lien or charge in respect of any such loan or advance or credit or any debt or claim of the Bank and which have not been redeemed in due time in accordance with the terms and conditions (if any) of such deposit or assignment
- (c) the advancing and lending money to Courts of wards upon the security of estates in their charge or under their superintendence, and the realisation of such advances or loans and any interest due thereon, provided that no such advance or loan shall be made without the previous sanction of the Local Government concerned, and that the period for which any such advance or loan is made shall not exceed six months;
- (d) the drawing, accepting, discounting, buying and selling of bills of exchange and other negotiable securities payable in India, or in Ceylon, and, subject to the general or special directions of the Governor-General in Council, the discounting, buying and selling of bills of exchange, payable outside India, for and from or to such Banks as the Governor-General in Council may approve in that behalf,
- (e) the investing of the funds of the Bank upon any of the securities specified in sub-clause (i) to (iii) of clause (a) and converting the same into money when required, and altering, converting and transposing such investments for or into others of the investments above specified:
- (f) the making, issuing and circulating of bank-post bills and letters of credit made payable in India, or in Ceylon, to order, or otherwise than to the bearer on demand,
- (g) the buying and selling of gold and silver whether coined or uncoined;

- (k) the receiving of deposits and keeping cash accounts on such terms as may be agreed on ;
- (l) the acceptance of the charge of plate, jewels, title-deeds or other valuable goods on such terms as may be agreed on ,
- (j) the selling and realising of all property, whether moveable or immoveable, which may in any way come into the possession of the Bank in satisfaction or part satisfaction of any of its claims ,
- (k) the transacting of pecuniary agency business on commission ;
- (l) the acting, as administrator, executor or trustee for the purpose of winding up estates, and the acting as agent on commission in the transaction of the following kinds of business, namely :—
- (i) the buying, selling, transferring and taking charge of any securities or any shares in any public Company ,
- ii) the receiving of the proceeds, whether principal, interest or dividends, of any securities or shares ,
- (iii) the remittance of such proceeds at the risk of the principal by public or private bills of exchange, payable either in India or elsewhere :
- (m) the drawing of bills of exchange and the granting of letters of credit payable out of India, for the use of principals for the purpose of the remittances mentioned in clause (l) and also for private constituents for *bona fide* personal needs ;
- (n) the buying for the purpose of meeting such bills or letters of credit, of bills of exchange payable out of India, at any instance not exceeding six months ;
- (o) the borrowing of money in India for the purposes of the Bank's business, and the giving of security for money so borrowed by pledging assets or otherwise ,
- (p) the borrowing of money in England for the purposes of "the" Bank's business upon the security of assets of the Bank, but not otherwise ; and
- (q) generally, the doing of all such matters and things as may be incidental or subsidiary to the transacting of the various kinds of business hereinbefore specified.

PART II.

Business which the Bank is not authorised to carry out or transact.

The Bank shall not transact any kind of banking business other than those specified in Part I. and in particular—

- (1) It shall not make any loan or advance—
 - (a) for a longer period than six months, or
 - (b) upon the security of stock or shares of the Bank, or

* Certain word after this has been inserted by Act 7 of 1924.

said transferee, his executor, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution thereof, and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid

As witness our hands the _____ day of _____

Witness to the signature of, etc.

10. The Bank may decline to register any transfer of shares, not being fully paid shares, to a person of whom it does not approve, and may also decline to register any transfer of shares on which the Bank has a lien.

The Bank may also suspend the registration of transfers for any period during which it has under the provisions of this Act directed that the registers shall be closed.

The Bank may decline to recognise any instrument of transfer unless—

(a) a fee not exceeding two rupees is paid to the Bank in respect thereof ; and

(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Bank may reasonably require to show the right of the transferor to make the transfer

11. The executors or administrators of a deceased sole holder of a share shall be the only persons recognised by the Bank as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the executors or administrators of the deceased survivor, shall be the only persons recognised by the Bank as having any title to the share

12. Any person becoming entitled to a share in consequence of the death or insolvency of a shareholder shall, upon such evidence being produced as may be required by the Bank, have the right either to be registered as a shareholder in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or insolvent person could have made, but the Bank shall, in either case, have the same right to decline or suspend registration as it would have had in the case of a transfer of the share by the deceased or insolvent person before the death or insolvency.

13. Any person becoming entitled to a share in consequence of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a shareholder in respect of the share, be entitled in respect of it to exercise any right conferred on a shareholder in relation to meetings of the Bank.

Forfeiture of Shares.

14. If a shareholder fails to pay any call or instalment of a call on the day appointed for payment thereof, the Central Board may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve

a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

15. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice, on or before which the payment required by the notice is to be made, and shall state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

16 If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Central Board to that effect.

17. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Central Board thinks fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Central Board thinks fit.

18 A person whose shares have been forfeited shall cease to be a shareholder in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the Bank all moneys which, at the date of forfeiture, were presently payable by him to the Bank in respect of the shares, but his liability shall cease if and when the Bank receives payment in full of the nominal amount of the shares

Alteration of Capital.

19 The shareholders of the Bank may, by special resolution and with the previous sanction of the Governor-General in Council, increase or reduce the capital of the Bank :

Provided that no such special resolution shall be deemed to have been passed, unless at least one-third in number of the shareholders, holding at least one-half of the paid up capital of the Bank for the time being, be present in person or by proxy, and the majority of such shareholders have voted either by show of hands or by poll, as the case may be, in favour of the said resolution.

20. When any such special resolution to increase the capital has been passed, the Central Board may, subject to the provisions of this Act and to the special directions (if any) given in reference thereto by the meeting at which such resolution has been passed—

- (a) make such orders as it thinks fit for the opening of subscriptions by the shareholders towards such increase of capital,
- (b) allow to the shareholders such period to fill up the subscription as it thinks fit,
- (c) direct the manner in which the shareholders shall subscribe and pay into the Bank the proportions of new capital which they may respectively desire to subscribe ; and

- (i) make such orders as it thinks fit for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up in the manner aforesaid.

21. Any new shares shall be subject to the same provision with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original capital.

22. When any such special resolution to reduce the capital has been passed, the Central Board may (subject as aforesaid) determine the manner in which the reduction shall be carried into effect.

Meetings of Shareholders.

23. (1) On the first Monday of the month of August in every year, or as soon after such day as is convenient, a general meeting shall be held at such time and at such town where there is a local head office of the Bank as shall from time to time be prescribed by the Central Board, at which meeting the Central Board shall submit to the shareholders a statement of the affairs of the Bank made up to the preceding thirtieth day of June.

Provided that such general meeting shall not be held on two consecutive occasions at any one town in which there is a local head office of the Bank

(2) A notice convening such meeting, signed by a Managing Governor shall be published in the *Gazette of India* and in such other manner as the Central Board may direct at least fifteen days before the meeting is held

24. Any hundred or more shareholders holding shares, to the aggregate amount of five hundred thousand rupees, or any three Governors may convene a special meeting upon giving sixty days previous notice of such meeting, and of the purpose for which the same is convened, as well to the Central Board as also by public advertisement in the *Gazette of India*, and in two of the English daily newspapers and one of the Vernacular newspapers

Provided that three months' previous notice shall be thus given of any special meeting held for the purpose of increasing or reducing the capital of the Bank, and shall also be addressed to every shareholder.

25. (1) No business shall be transacted at any meeting, whether general or special, unless a quorum of two hundred shareholders, in person or by proxy, is present at the commencement of such business.

(2) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened by shareholders not being Governors, shall be dissolved; in any other case, it shall stand adjourned to the same day in the following week at the same time and place, and if at such adjourned meeting a quorum is not present, those shareholders who are present shall be a quorum.

26. (1) Save as is otherwise provided in this Act in regard to resolutions for the increase or reduction of capital or for the removal of a Governor, every election and every matter submitted to a meeting, whether general or special, shall be decided by a majority of votes.

(2) No shareholder shall be allowed to vote at any such meeting in respect of any share acquired by transfer, unless such transfer shall have been completed and registered at least three months before the time of such meeting.

(3) No shareholder shall be entitled to vote at any meeting in respect of any shares held by him alone or jointly, whilst any call due from him alone or jointly remains unpaid.

27. Save as otherwise provided in this Schedule a declaration by the chairman of any meeting, that a resolution has been carried or rejected thereat upon a show of hands, shall be conclusive, and an entry to that effect in the book of proceedings of the Bank shall be sufficient evidence of that fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution, unless, immediately on such declaration, a poll be demanded in writing by ten shareholders present and entitled to vote at such meeting.

28. If a poll be duly demanded, it shall be taken either at once or at such time and place, and save as otherwise provided in this Act, either by open voting or by ballot, as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

29. The proceedings at any meeting and all resolutions and decisions of such meeting shall be valid and binding on the Bank so far as such proceedings, resolutions and decisions are consistent with the provisions of this Act.

Votes of Members.

30. On a show of hands every shareholder present in person shall have one vote. On a poll every shareholder shall have one vote for every four shares of which he is the holder.

31. In the case of joint-holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint-holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of shareholders.

32. A shareholder of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll by his committee or other legal guardian, and a shareholder who is a minor may similarly vote by his guardian and any such committee or guardian may, on a poll, vote by proxy.

33. No shareholder shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Bank have been paid

34. On a poll votes may be given either personally or by proxy

35. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing. No person shall act as a proxy unless either he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy, or he has been appointed to act at that meeting as proxy for a corporation.

36. The instrument appointing a proxy and the power-of-attorney or other authority (if any) under which it is signed, or a notarially, certified copy of that power or authority, shall be deposited at the head office of the Bank in the place where the meeting is to be held not less than ninety six hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid

Local meetings.

37. A general meeting of the shareholders on a Branch register shall be held once in every year at the local head office of the Bank at which the Branch register is kept. It shall be held on such date as the Central Board may direct.

38. The foregoing provisions of this Schedule as to the convening of general and special meetings and procedure at meetings shall, so far as may be apply to local and special local meetings of the shareholders on a Branch register :—

Provided that references in the said provisions to shareholders shall be deemed to be references to shareholders on the Branch register, and reference to Governors, Managing Governors and the *Gazette of India* shall be deemed to be references, respectively, to the members of the Local Board, secretaries and to the local official Gazette

Provided further that ten or more shareholders holding shares to the aggregate amount of fifty thousand rupees may convene a special local meeting and that the number of shareholders to constitute a quorum and to demand a poll in the case of a local meeting shall be, respectively, twenty and five.

Qualifications and disqualifications of Governors and others.

39. (1) No persons shall be qualified to serve as a Governor or as a member of a Local Board who is not a holder in his own right of unencumbered shares of the Bank, to the nominal amount of ten thousand rupees at the least :

Qualification and disqualification of Governors and of members of Local Boards.

Provided that this provision shall not apply in the case of a person who is an officer of the Bank or is nominated or appointed by the Governor-General in Council.

(2) No person shall be qualified to serve as a Governor or as a member of a local board—

if he holds the office of director, provisional director, promoter, agent or manager of any joint-stock bank established, or having a branch or agency, in British India, or advertised as about to be established, or to have a branch or agency in British India

Provided that this disqualification shall not apply to any person, being a director of a joint stock bank, who may be nominated as a Governor under the provision of clause (iii) of sub-section (1) of section 28 ; or

if he is a salaried officer of Government not specially authorised by this Act or by the Governor-General in Council to serve as a member ,

and the office of a Governor or a member of the Local Board shall be vacated—

if the person holding it resigns his office or dies ;
if he accepts or holds any other office of profit under the Bank ,

if he becomes insolvent or bankrupt, or compounds with his creditors ;

if he is declared lunatic, or becomes of unsound mind ;

if he is absent from the Central Board, or the Local Board, as the case may be, for more than six consecutive months : or

if he ceases to hold in his own right the amount of shares required to qualify him for the office

(3) No two persons who are partners of the same mercantile firm, or are directors of the same private company, or one of whom is the general agent of, or holds a power of procuration from the other, or from a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as members of the Central Board or a Local Board or of the Central Board and a Local Board, at the same time.

Removal of Governors and members of Local Boards

40. The shareholders may, by special resolution passed by a majority of the votes of shareholders holding in the aggregate not less than one-half of the capital, remove any Governor (other than a Governor nominated or appointed by the Governor General in Council) before the expiration of his period of office, and appoint in his stead, a qualified person, who shall in all respects stand in his place.

41. The shareholders on a branch register may, by a special local resolution passed by the votes of shareholders holding in the aggregate not less than one half of the capital on the branch register, remove any member of the Local Board before the expiration of his period of office, and appoint, in his stead, a qualified person who shall in all respects stand in his place.

Meetings of Central Board.

42. (1) Meetings of the Central Board shall be convened not less than once in every three months by a Managing Governor and a meeting of the Central Board shall be held once at least in every year at every local head office established by this Act.

(2) Any Local Board may require a Managing Governor to convene a meeting of the Central Board at any time and a Managing Governor shall forthwith convene a meeting accordingly.

(3) Four Governors entitled to vote shall form a quorum for the transaction of business.

(4) At each meeting of the Central Board the Governors present shall elect from among themselves a chairman for such meeting, who, if he is entitled to vote, shall have a second or casting vote in all cases of an equal division of votes.

Local Boards.

43. (1) At the first general local meeting after the commencement of this Act, and at the annual general local meeting thereafter, the two members of the Local Board who have been longest in office as members thereof shall go out of office. The vacancies shall be filled by election at a general or special local meeting.

(2) Any member so retiring may be re-elected; and if any question arises as to which of the members who have been the same time in office shall retire, the question shall be decided by the Local Board by ballot.

(3) Subject to any bye-laws which may be prescribed the number of members of any Local Board may be varied by a special local resolution.

(4) Three of the members of a Local Board shall form a quorum for the transaction of business.

(5) Meetings of a Local Board shall be convened by the president, vice-president or, in their absence, the senior member of the Board, whenever he thinks fit.

44. At the first meeting of the Local Board in every year it shall choose a president and vice-president from among its members, and whenever the office of president or vice-president becomes vacant, the Local Board shall, at its next meeting, choose a successor for the remainder of the current year.

Provided that, no person shall be chosen to be president or vice-president twice in succession.

(2) The president or, in his absence, the vice-president shall be chairman at all meetings of the Local Board and at all general or special local meetings.

Provided that, if both the president and vice-president be absent at any meeting, the persons present at such meeting shall elect a chairman from among themselves.

(3) The chairman shall have a second or casting vote in all cases of an equal division of votes.

45. (1) Any vacancy occurring on a Local Board by the death, resignation or disqualification of any member
 Vacancies shall be filled up by the remaining members who shall co-opt a duly qualified person to fill the vacancy.

(2) Any member so appointed shall be considered to have held office from the date on which the member in whose place he is appointed was elected or, when such member was appointed under this clause, from the date on which his mediate or immediate predecessor was elected, as the case may be

General provisions as to Central and Local Boards.

46. No act or proceeding of the Central Board or of a Local Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among its governors or members.
 Proceedings of Boards not invalidated by vacancies

47. All acts done by any person acting in good faith as a Governor or as a member of a Local Board shall be as valid as if he was a member of the Central or Local Board as the case may be, notwithstanding it be afterwards discovered that there was some defect in his appointment or qualification.
 Acts of members of boards valid notwithstanding subsequent discovery of disqualification.

48. (1) Every Governor and every member of Local Board shall be indemnified by the Bank against all losses and expense incurred by him in or about the discharge of his duties, except such as happen from his own wilful act or default.
 Indemnity of members of boards.

(2) A Governor shall not, nor shall a member of a Local Board be responsible for any other Governor or member, or for any officer or servant of the Bank or for any loss or expense happening to the Bank by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Bank, or by the insolvency, bankruptcy or wrongful act of any customer or debtor of the Bank, or by anything done in the execution of the duties of his office or in relation thereto, or otherwise than for his own wilful act or default.

The Seals.

49. (1) The common seal of the Bank shall not be affixed to any instrument except in the presence of at least three Governors including a Managing Governor, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness. Unless so signed as aforesaid such instrument shall be of no validity.
 Common seal.

(2) The Bank shall have for use by the Local Boards at Calcutta, Madras and Bombay and may have for the use of other Local Boards established under this Act official seals which shall be facsimiles of the common seal of the Bank with the addition of the name of the local head office where it is to be used.

(3) The official seal shall be affixed to the certificates issued in respect of any shares entered in the branch registers kept at those places and may be used for such other purposes as may be prescribed.

(4) An instrument to which an official seal is duly affixed shall bind the Bank as if it had been sealed with the common seal of the Bank.

(5) An official seal shall not be affixed to any instrument except in the presence of at least two members of the Local Board and the secretary who shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any person who may sign the instrument as a witness. Unless so signed as aforesaid such instrument shall be of no validity.

Officers of the Bank

50 The Central Board and, subject to the provisions of this Act, the Local Boards shall have power—
 Appointment, salaries, suspension and removal of officers.

(a) to appoint such officers, and servants as may be necessary to conduct the business of the Bank,

(b) to grant salaries, pensions and other emoluments to such officers and servants, and

(c) to suspend or remove any officer or servant of the Bank.

51. The Managing Governors, the secretaries and such other officers of the Bank as the Central Board may authorise in this behalf by notification in the *Gazette of India* are hereby severally empowered for and on behalf of the Bank to endorse and transfer promissory notes, stock receipts, stock-debentures, shares, securities and documents of title to goods, standing in the name of, or held by, the Bank, and to draw, accept and endorse bills of exchange, bank postbills, and letters of credit, in the current and authorised business of the Bank, and to sign all other accounts, receipts and documents connected with such business.
 Accounts, receipts and documents of Bank by whom to be signed.

52. No Managing Governor, secretary, inspector, manager, or accountant in the service of the Bank, and without the previous sanction of the board, no *kharanchi*, cashier or shroff in the service of the Bank and no agent at any branch or agency of the Bank, shall engage in any other banking or commercial business either on his own account or as agent for any other persons or shall act as broker or agent for the sale or purchase of Government or other securities.
 Officers forbidden to engage in other commercial business

53. Every person appointed to hold or act in any one or more of the said offices, and every other officer from whom the Central Board may think fit to require it shall give security to the Bank for the faithful discharge of his duty to the satisfaction of the Central Board in such amount and in such manner as it thinks proper. The security to be given as aforesaid by the person holding or acting in the office of secretary shall not be in a less amount than fifty thousand rupees.
 Security from officers.

Accounts and Dividends

54. (1) The Central Board shall cause the books of the Bank to be balanced on every thirty-first day of December and every thirtieth day of June.

Books to be balanced
twice a year

(2) A statement of the balance at every such period, signed by a majority of the Governors shall be forthwith sent to the Governor-General in Council.

(3) The Governor-General in Council shall (so long as any such arrangement with the Secretary of State as is mentioned in section 10 is in force) be entitled to require of the Central Board any information touching the affairs of the Bank and the production of any document of the Bank, and may require the publication of such statements of its assets and liabilities at such intervals and in such form and manner as he thinks fit.

55. (1) An account of the profits of the Bank during the previous half year shall be taken on or immediately after every thirty-first day of December and every thirtieth day of June and a dividend shall be made as soon thereafter as conveniently may be, and the amount of such dividend shall be determined by the Central Board

Dividends to be determined
half yearly.

(2) No unpaid dividend shall bear interest as against the Bank.

56. The Central Board may, before declaring any dividend set aside out of the profits of the Bank such sums as it think proper as a reserve or reserves which shall, as the discretion of the Central Board be applicable for meeting contingencies, or for equalising dividends, or for any other purpose to which the profits of the Bank may be properly applied, and pending such application may at the like discretion, either be employed in the business of the Bank or be invested in any of the securities specified in sub-clauses (1) to (iii) of clause (a) of Part I of Schedule 1.

Transfer to Reserve,

57. If several persons are registered as joint-holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

Joint-holders,

Audit

58. (1) Three auditors shall be elected and their remuneration fixed at the annual general meeting. The auditors may be share-holders, but no Governor or member of a Local Board or other officer of the Bank shall be eligible during his continuance in office. Any auditor shall be eligible on quitting office for re-election

Auditors.

(2) The first auditors of the Bank may be appointed by the Central Board before the annual general meeting and if so appointed shall hold office only until the first annual general meeting. All auditors elected under this clause shall severally be and continue to act as auditors until the first general meeting after their respective elections :

Provided that, if any casual vacancy occurs in the office of any auditor elected under this section a special meeting shall be called for the purpose of supplying the same.

59. Without prejudice to anything contained in the foregoing provisions the Governor-General in Council may appoint such auditors as he thinks fit to examine and report upon the accounts of the Bank.

60. (1) Every auditor shall be supplied with a copy of the half-yearly balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto. Every auditor shall have a list delivered to him of all books kept by the Bank and shall at all reasonable times have access to the books, accounts and other documents of the Bank and may, at the expense of the Bank if appointed by it and at the expense of the Governor-General in Council if appointed by him, employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts examine any Governor or any member of a Local Board, or any officer of the Bank.

(2) The auditors shall make a report to the shareholders or to the Governor-General in Council as the case may be upon the annual balance-sheet and accounts and in every such report they shall state whether, in their opinion the balance-sheet is a full and fair balance-sheet containing the prescribed particulars and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and in case they have called for any explanation or information from the Central Board, whether it has been given and whether it is satisfactory. Any such report made to the shareholders shall be read together with the report of the Central Board at the annual general meeting,

Notices

61. (1) A notice may be given by the Bank to any shareholder either personally or by sending it by post to him to his registered address or (if he has no registered address in British India) to the address, if any, within British India supplied by him to the Bank for the giving of notices to him.

(2) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

62. If a shareholder has no registered address, a notice addressed to him and advertised in the *Gazette of India* and a daily newspaper shall be deemed to be duly given to him on the day on which the advertisement appears.

63. A notice may be given by the Bank to the joint-holders of a share by giving the notice to the joint-holder named first in the register in respect of the share.

64. Any notice given in accordance with the foregoing provisions shall be deemed to have been duly given notwithstanding that the shareholder be then deceased and whether or not the Bank had notice of his decease, and shall in that event be deemed to be a notice to his legal representative

Service of notice on Bank 65. A notice may be served on the Bank by leaving it at, or sending it by post to any local head office of the Bank.

SCHEDULE III.

ENACTMENTS REPEALED.

(See section 34.)

Year.	No.	Short title.
1876	XI	The Presidency Banks Act, 1876.
1879	V	The Presidency Banks Act, 1879.
1899	XX.	The Presidency Banks Act, 1899,
1907	I.	The Presidency Banks (Amendment) Act, 1907.
1916	VIII	The Presidency Banks (Amendment) Act 1916.

ACT NO. XLVIII OF 1920.

The Indian Territorial Force Act, 1920.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

*Received the assent of the Governor-General on the 22nd September, 1920.**An Act to constitute an Indian Territorial Force, and to provide for the enrolment therein of persons other than European British subjects.*

WHEREAS it is expedient to provide for the constitution of an Indian Territorial Force, and for the enrolment therein of persons other than European British subjects who may offer themselves therefor; It is hereby enacted as follows.—

1. (1) This Act may be called the Indian Territorial Force Act, 1920.

Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of October, 1920.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

“Advisory Committee” means an Advisory Committee constituted under section 12 for the Province within which a person subject to this Act for the time being resides or is serving, as the case may be,

“enrolled” means enrolled or re-enrolled in the Indian Territorial Force under this Act,

“European British subject” means any person who is a European British subject as defined in the Code of Criminal Procedure, 1898,* or is a British subject of European descent in the male line,

“prescribed” means prescribed by rules made under this Act, and

“University Corps” means any corps of the Indian Territorial Force constituted for the appointment thereto of students of, and other persons connected with, a University established by law in British India or colleges affiliated to such a University.

3 There shall be raised and maintained in the manner hereinafter provided a force to be designated the Indian Territorial Force.

Constitution of Indian Territorial Force.

Provided that the Governor-General in Council shall establish all or any of the branches of the Force as circumstances may permit from time to time.

* Act V. of 1898.

4 The Governor-General in Council may constitute for any province one or more corps or units of the Indian Territorial Force and may disband any corps or unit so constituted.

Constitution and disbandment of units

5 (1) Any British subject (not being a European British subject) or any subject of a State in India may offer himself for enrolment in the Indian Territorial Force, and any such person who satisfies the prescribed conditions may be enrolled in the prescribed manner for such period, not exceeding six years, as may be prescribed.

Enrolment.

(2) As applicant for enrolment may apply to be enrolled for service in any particular branch, corps or unit constituted for the Province within which he for the time being resides.

6. (1) Every person enrolled shall without unnecessary delay be appointed in the prescribed manner to a corps or unit constituted under section 4 for the Province in which he for the time being resides.

Appointment to corps or unit.

(2) Any person who has been enrolled for service in any particular branch, corps or unit shall be appointed to a corps or unit of that branch or to that corps or unit, as the case may be

7. (1) Any person appointed to a corps or unit under section 6 may be transferred, whether on disbandment of the corps or unit or otherwise, to another corps or unit of the Indian Territorial Force, in such manner as may be prescribed.

Transfer and attachment.

(2) Nothing contained in sub-section (1) shall be deemed to authorise the transfer without his own consent of any person enrolled to a corps or unit constituted for a Province other than that in which he for the time being resides, or of a person enrolled for service in a particular branch to a corps or unit of another branch, or of a person enrolled for service in a particular corps or unit to any other corps or unit.

(3) Any person enrolled may be attached at his own request to any corps or unit of the Indian Territorial Force or to any regular forces.

8. Every person enrolled shall be entitled to receive his discharge from the Indian Territorial Force on the expiration of the period for which he was enrolled and any such person may, prior to the expiration of that period, be discharged from the said Force by such authority and subject to such conditions as may be prescribed, and shall be so discharged on a recommendation of the Advisory Committee in this behalf :

Discharge.

Provided that no person enrolled who is for the time being engaged in military service under the provisions of this Act shall be entitled to receive his discharge before the termination of such service.

9. (1) Every person enrolled shall, subject to such conditions as may be prescribed, be bound to serve in any corps or unit of the Indian Territorial Force to which he has been appointed or transferred or is for the time being attached, and shall be subject to all rules and regulations that may be made under this Act relating to such corps or unit.

Liability to serve and perform military service.

(2) Every person enrolled shall be liable to perform military service—

(a) when called out with any portion of the Indian Territorial Force by an order of the senior military officer present either to act in support of the civil power or to provide guards which, in the opinion of such officer, are essential; or

(b) when any portion of the Indian Territorial Force to which he belongs has been embodied to support or supplement His Majesty's regular forces in India in the event of an emergency by a notification directing such embodiment issued by the Governor General in Council and published in the *Gazette of India*, or

(c) when attached at his own request to any regular forces

10 (1) No person embodied under section 9 shall be required to perform military service beyond the limits of Territorial limits of liability to, and duration of, military service. India save under a general or special order of the Governor General in Council.

(2) Any portion of the Indian Territorial Force which, having been called out or embodied under section 9, is performing military service shall be replaced by regular troops or otherwise as soon as circumstances permit, and shall not be required to perform such service after such replacement has been effected to the satisfaction of the senior military officer in charge or after the cancellation of the order or notification under clause (a) or (b), as the case may be, of section 9

11. (1) Every commissioned officer of the Indian Territorial Force when doing duty as a commissioned officer and every non-commissioned officer and man of the said Force—

(a) when called out or embodied for military service under section 9, or

(b) when attached to or otherwise acting as part of or with, any regular forces,

shall be subject to the Indian Army Act, 1911,* and the rules made thereunder, whereupon the said Act and rules shall apply to him as if he held the same rank in His Majesty's Indian forces as he holds for the time being in the Indian Territorial Force.

(2) Every commissioned officer, non-commissioned officer, and man of the said Force when embodied for, or otherwise undergoing, military training in the prescribed manner shall be subject to the Indian Army Act, 1911,* and the rules made thereunder.

Provided that the said Act and rules shall in their application to such persons be modified to such extent and in such manner as may be prescribed:

Provided further that officers, non-commissioned officers and men of a University Corps shall, when undergoing military training, be subject

* Act VIII. of 1911.

only to such disciplinary and other rules as may be prescribed in this behalf.

(3) Where an offence punishable under the Indian Army Act, 1911, or as the case may be, under that Act as modified under sub-section (2) has been committed by any person whilst subject to that Act under the provisions of this section, such person may be taken into and kept in military custody and tried and punished for such offence under that Act, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished, if he had continued to be so subject,

Provided that no such person shall be kept in military custody after he has ceased to belong to the Indian Territorial Force, unless he has taken into or kept in military custody on account of the offence before the date on which he ceased so to belong nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial has already commenced before such expiry."

12 (1) The Local Government of each Province for which any unit of the Indian Territorial Force has been constituted shall constitute an Advisory Committee consisting of three members of whom one shall be a military officer appointed in the prescribed manner and the others shall be persons who are British subjects (other than European British subjects) not in the service of Government appointed annually by or under the orders of the Local Government.

(2) The duties, powers and procedure of Advisory Committees shall be such as may be prescribed.

13. (1) The Governor-General in Council may, after previous publication, make rules to carry out the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may—

- (a) prescribe the manner in which, the period for which and the conditions subject to which persons may be enrolled under section 5 ;
- (b) prescribe the manner in which persons enrolled may be appointed to corps and units under section 6 or transferred under section 7 ;
- (c) prescribe the authorities by which and the conditions subject to which persons enrolled may be discharged under section 8 ;
- (d) prescribe the preliminary and periodical training to be undergone by any persons or class of persons enrolled and provide for the embodiment of any corps or unit for that purpose ;
- (e) prescribe the military or other obligations to which members of a University Corps shall be liable when undergoing military training and provide generally for the maintenance of discipline in such cases ;

(f) provide for the medical examination of persons offering themselves for enrolment under section 5 ;

(g) provide for and regulate the remuneration, allowances, gratuities or compensation (if any) to be paid to any person or class of persons enrolled or to their dependants, and

(h) provide for any other matter which under this Act is to be or may be prescribed.

(3) All rules made under this Act shall be published in the *Gazette of India*, and on such publication shall have effect as if enacted in this Act,

14. (1) The Commander-in-Chief of His Majesty's forces in India may make regulations consistent with this Act and the rules made thereunder providing generally for all details connected with the organization and personnel of the Indian Territorial Force and for the duties, military training, clothing, equipment, allowances and leave of persons enrolled.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may specify the courses of training or instruction to be followed by any person or class of persons enrolled.

15. For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, 1898,* all officers, non-commissioned officers and men of the Indian Territorial Force who have been appointed to a corps or unit shall be deemed to be officers, non-commissioned officers, and soldiers, respectively, of His Majesty's Army.

16 No person shall be liable to pay any municipal or other tax in respect of any horse, bicycle, motor bicycle, motor car, or other means of conveyance which he is authorised by regulations made under section 14 to maintain in his capacity as a member of the Indian Territorial Force.

* Act V. of 1898.

ACT NO. XLIX. OF 1920.

The Auxiliary Force Act, 1920

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor General on the 22nd September, 1920.

An Act to constitute an auxiliary force for service in India.

Whereas it is expedient to constitute an auxiliary force for service in India ; It is hereby enacted as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Auxiliary Force Act, 1920.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also to European British subjects within the territories of any Prince or Chief in India

(3) It shall come into force on the first day of October, 1920

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

“Advisory Committee” means an Advisory Committee constituted under section 28 for the prescribed military area, or part of a prescribed military area, within which a person subject to this Act for the time being resides or is serving, as the case may be ;

“competent military authority” means the General or other Officer Commanding the prescribed military area within which a person subject to this Act for the time being resides or is serving, as the case may be ;

“enrolled person” means a person enrolled in the prescribed manner under this Act ;

“enrolling officer” means an officer authorised to enrol persons under this Act ;

“prescribed” means prescribed by rules made under this Act, and “prescribe” has a corresponding meaning ;

“regulation” means a regulation made under section 31, and

“training year” means a period of twelve months beginning on the first day of April and ending on the thirty-first day of March

3. There shall be raised and maintained in the manner hereinafter provided an auxiliary force for service in India to be designated the Auxiliary Force, India.

Constitution of an auxiliary force.

4. Every person who—

Classes who may be enrolled.

(a) is a European British subject as defined in the Code of Criminal Procedure, 1898,* or

(b) was, on the thirtieth day of September, 1920, enrolled or deemed to be enrolled under the Indian Defence Force Act, 1917† not being a person enrolled under the provisions of section 12 of that Act), or

(c) is a British subject of European descent in the male line, or

(d) not being a British subject, satisfies the conditions prescribed for enrolment of persons of that class,

shall, subject to the provisions of this Act, be eligible for enrolment thereunder

5. (1) Any male eligible for enrolment under this Act who has attained the age of sixteen years and is not a member of His Majesty's regular, naval, military or air forces or of His Majesty's Royal Indian Marine may apply to be enrolled in the Auxiliary Force, India, and, if he satisfies the prescribed conditions, may be enrolled therein in the prescribed manner, and shall thereupon become subject to the provisions of this Act

(2) An applicant for enrolment may apply to be enrolled for service in any particular branch, or in any particular corps or unit located in the prescribed military area within which he for the time being resides

6. Every enrolled person shall be liable to undergo military training as provided by or under this Act until discharged from the Auxiliary Force, India, as hereinafter provided

7. Every enrolled person liable to undergo military training under section 6 shall, on and from the first day of April next following the date on which he attains the age of eighteen years, or, if he has already attained the age of eighteen years, on and from any later date on which he enrolled, be liable to perform military service under this Act.

8 (1) Every enrolled person shall, without unnecessary delay, be appointed by, or under the orders of the competent military authority to a corps or unit of the Auxiliary Force, India, and on receipt of an order so appointing him shall report himself for the purpose of joining such corps or unit at such time and place as may be specified in the order

(2) Any person who has been enrolled for service in any particular branch, corps or unit shall be appointed to a corps or unit of that branch or to that corps or unit, as the case may be.

9. Every enrolled person liable to perform military service under this Act who on becoming so liable has not attained the age of thirty-one years shall, within the training year in which he becomes so liable, undergo the preliminary training specified in Schedule I. :

* Act V, of 1898.

† Act III, of 1917.

Provided that, if such preliminary training cannot be completed within that training year, it may be completed at the discretion of the competent military authority in the training year next following .

Provided further that any person who has completed the preliminary training required by regulations made under the Indian Defence Force Act, 1917,* or who has served for a period of six months in His Majesty's naval, military or air forces or in His Majesty's Royal Indian Marine, or who is certified by the competent military authority to have undergone adequate military training under the Indian Defence Force Act, 1917,* or under this Act or otherwise, shall be deemed to have completed the preliminary training required by this section.

10. Every enrolled person (other than a commissioned officer of the Auxiliary Force, India) who is entitled to rank as an officer of His Majesty's Forces, shall undergo such periodical training as may be laid down in regulations.

Periodical training of persons entitled to rank as officers

11. Every enrolled person liable to perform military service under this Act (other than a person to whom the provisions of section 10 apply) shall be included as hereinafter provided in one or other of the following classes, namely :—

Classification and periodical training,

- (a) the Active Class ,
- (b) the First (A) Class of the Reserve , or
- (c) the Second (B) Class of the Reserve ;

and shall undergo the periodical training specified in Schedule I. for the Class, in which he is for the time being included.

12. (1) Every commissioned officer of the Auxiliary Force, India, shall be included in the Active Class until he relinquishes his commission.

Classification.

(2) Enrolled persons liable to perform military service under this Act, on being commissioned officers of the Auxiliary Force, India, or entitled to rank as officers of His Majesty's Forces, shall be classified as follows, namely :—

(a) every such person who is required by section 9 to undergo preliminary training and has completed or is deemed to have completed the same shall be included in the Active Class until the end of the training year in which he attains the age of thirty-one years ,

(b) every such person who has completed the period of service in the Active Class as required by clause (a) or is enrolled after attaining the age of thirty-one years and before attaining the age of forty years shall be included in the First (A) Class of the Reserve until the end of the training year in which he attains the age of forty years ;

(c) every such person who has completed the period of service in the First (A) Class of the Reserve as required by clause (b)

or is enrolled after attaining the age of forty years shall be included in the Second (B) Class of the Reserve until discharged from the Auxiliary Force, India as hereinafter provided

(3) Any enrolled person who ceases to be entitled to rank as an officer of His Majesty's Forces or to be a commissioned officer of the Auxiliary Force, India, shall thereupon be included in the Class in which he would have been included under this section if the provisions of section 10 or sub-section (1), as the case may be, had not applied to him, and shall undergo periodical training accordingly

(4) Any person who is under this section included in either Class of the Reserve may apply to the competent military authority to be included for any training year in any other Class for which more periodical training is specified in Schedule I, and shall thereupon be deemed to be included in that Class

(5) Notwithstanding anything hereinbefore contained if any person is under this section included in any Class after the commencement of a training year the competent military authority shall reduce to such extent as he may deem fit, or may remit, the amount of periodical training to be undergone by such person in that year.

13 (1) The competent military authority may, by order in writing,—
Variations of training.

(a) on the recommendation of the Advisory Committee, direct the inclusion of any enrolled person in any Class for which less periodical training is specified than that specified for the Class in which he is included under the provisions of section 12, or

(b) on his own motion or on the recommendation of the Advisory Committee, reduce the specified amount of training either in individual cases or in the case of any unit or part thereof for any stated period.

(2) The competent military authority shall grant to each person whose training is reduced under clause (b) of sub section (1) a certificate setting forth the amount of training to be undergone during the said period

14. Every enrolled person shall, if and when required by the competent military authority, present himself for such medical examination as may be necessary to determine the extent, if any, to which he is fit to undergo military training or to perform military service, before a medical officer appointed or approved in that behalf by the competent military authority, and for the purposes of such medical examination shall comply with the directions of such medical officer

15. (1) Every person appointed to a corps or unit under section 8 shall remain in that corps or unit until transferred to another corps or unit by, or under the orders of, the competent military authority, but no person shall be transferred from the Infantry branch to another branch or from one unit to another

unit located in the same prescribed military area except at his own request.

(2) Any person so transferred from the Infantry branch to another branch may be required to undergo such further preliminary training, not exceeding eight days, as may be ordered by the competent military authority and thereafter shall undergo the periodical training specified in Schedule I for the branch to which he is transferred :

Provided that any periodical training already undergone by such person in the training year in which he is transferred shall be deemed to have been undergone in such other branch.

Explanation —For the purposes of this section and of Schedule I. a day shall be deemed to consist of four hours of actual military drill or instruction, and may be made up of fractions of a day not more than four in number

16. (1) Any enrolled person who leaves his place of residence in India for the time being and thereby leaves the area commanded by one competent military authority for that commanded by another shall, if he does not intend to return to the area which he leaves, notify the competent military authority commanding that area of his change of residence.

(2) If such person having intended to return does not return within three months, he shall notify the competent military authority as aforesaid immediately on the expiry of that period.

(3) The competent military authority on being notified of a change of residence under sub-section (1) or sub-section (2) may, subject to the provisions of section 15, transfer such person from the corps or unit in which he is serving to another corps or unit

17. (1) Any enrolled person who has attained the age of forty five years or has completed four years' service from the date of his enrolment shall, on application made by him in the prescribed manner, be entitled to receive his discharge from the Auxiliary Force, India.

(2) An enrolled person who is not entitled to his discharge under sub-section (1) may be discharged by the competent military authority on a recommendation of the Advisory Committee in this behalf

18 No person liable to perform military service under this Act shall be required to perform such service except—

- (a) when called out with any portion of the Auxiliary Force, India, by an order of the senior military officer present either to act in support of the Civil power or to provide guards which, in the opinion of such officer, are essential, or
- (b) when any portion of the Auxiliary Force, India, to which he belongs has been embodied to support or supplement His Majesty's regular forces in the event of an emergency by a notification directing such embodiment issued by the Governor-General in Council or any Local Government empowered by the Governor General in Council in that behalf

and published in the *Gazette of India* or the local official Gazette, as the case may be, or

(c) when attached at his own request to any regular forces.

19. No person called out under clause (a), or embodied under clause (b), of section 18 shall be required to perform military service beyond the limits of the prescribed military area in which the corps or unit to which he has been appointed or is for the time being attached is located, save when it is, in the opinion of the senior military officer present, necessary to proceed beyond those limits in the course of the military operations upon which the corps or unit or any portion thereof is for the time being engaged.

Territorial limits of liability to military service on calling out and embodiment.

20. Any portion of the Auxiliary Force, India which, having been called out or embodied under section 18, is performing military service, shall be replaced by regular troops or otherwise as soon as circumstances permit, and shall not be required to perform such service after such replacement has been effected to the satisfaction of the senior military officer present or after the cancellation of the order or notification under clause (a) or (b), as the case may be, of section 18.

21. (1) Every commissioned officer of the Auxiliary Force, India, when doing duty as a commissioned officer, and every non-commissioned officer and man of the said Force—

Application of the Army Act.

(a) when attached to or otherwise acting as part of or with any regular forces, and

(b) when called out by an order, or embodied by a notification, under section 18,

shall be subject to the provisions of the Army Act* and any orders or regulations made thereunder, and the said Act, orders and regulations shall apply to every such person in the circumstances aforesaid as if the same were enacted in this Act, and as if such person held the same rank in His Majesty's Army as he holds for the time being in the said Force.

(2) Where an offence punishable under this Army Act has been committed by any person whilst subject to that Act under the provisions of subsection (1), such person may be taken into and kept in military custody and tried and punished for such offence although he has ceased to be so subject as aforesaid in like manner as he might have been taken into and kept in military custody, tried or punished if he had continued to be so subject.

Provided that, no such person shall be kept in military custody after he has ceased to belong to the Auxiliary Force, India unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry†

* Act 44 & 45. Vict, c. 58.

† Inserted by Act 31 of 1923.

22. If any person liable to perform military service under this Act fails to comply with an order or notification under section 18 calling him out or embodying him for military service, any District Magistrate or Chief Presidency Magistrate may, on the application of the competent military authority or of an officer empowered by such authority in writing in that behalf, cause such person to be arrested and brought before him, and if the Magistrate is satisfied that such person has been duly required to perform military service, the Magistrate may, without prejudice to any penalty which such person may have incurred, make over such person in custody to the military authorities

23. An enrolled person who refuses or without lawful excuse (the Penalties for breach of burden of proving which shall lie upon such persons) neglects—

- (a) to comply with any order under section 8, or
 - (b) to attend for medical examination, or to comply with the directions of the medical officer, as required by section 14, or
 - (c) to notify any change of residence as required by section 16,
- shall be punishable with fine which may extend to fifty rupees

24. An enrolled person commits an offence if he, in circumstances when he is not subject to military law, does any Other offences of the following acts, namely—

(1) when on parade or undergoing military training or wearing his Majesty's uniform—

- (a) strikes, or uses or offers violence to, or uses threatening or insubordinate language to, or behaves with contempt to, his superior officer, or
- (b) disobeys any standing order of, or lawful command given by, his superior officer, or
- (c) neglects to obey a general or garrison order made specially applicable to the Auxiliary Force, India, by the competent military authority; or
- (d) is in a state of intoxication, or
- (e) being a non-commissioned officer strikes or ill treats any person subject to military law or to this Act, or to the Indian Territorial Force Act, 1920,* who is his subordinate in rank or position,

(2) without sufficient cause fails to appear at the place of parade at the time fixed or to attend at any place in his capacity as a member of the Auxiliary Force, India, when duly required so to attend, or when on parade without sufficient cause quits the ranks,

(3) without sufficient cause fails to perform any part of the training which by or under this Act he is required to perform;

(4) strikes, or uses or offers violence to, any person whether subject to military law or not in whose military custody he is placed, and whether such person is or is not his superior officer :

* Act XL VII, of 1920.

(5) resists an escort whose duty it is to arrest him or detain him in military custody ,

(6) being under arrest or detention or otherwise in lawful military custody escapes or attempts to escape ,

(7) when in charge of any property belonging to Government or to a corps or unit of the Auxiliary Force, India makes away with, or is concerned in making away with, any such property ,

(8) wilfully injures, or by culpable neglect loses or causes injury to, any such property as is mentioned in clause (7) ,

(9) wilfully ill-treats a horse or other animal used in the public service ,

(10) knowingly furnishes a false return or report of the number or state of men under his command or charge or of any money, arms or ammunition, clothing, equipment, stores or other property in his charge ,

(11) through design or culpable neglect omits to make or send any return of any matter mentioned in clause (10) which it is his duty to make or send ,

(12) when it is his official duty to make a declaration respecting any matter, makes a declaration respecting such matter which he either knows or believes to be false or does not believe to be true ,

(13) knowingly makes against any person subject to military law or to this Act or to the Indian Territorial Force Act, 1920* an accusation which he either knows or believes to be false or does not believe to be true :

(14) falsely personates any other person at any parade or on any occasion when such other person is required by or under this Act to do any act or attend at any place, or abets any such act of personation

25. (1) Any person committing any of the offences specified in sub-clauses (b), (c) and (d) of clause (1) or in clauses (2), (3), (8), (11) and (14) of section 24 shall be punishable with fine which may extend to two hundred rupees.

Punishment for offences under section 24.

(2) Any person committing any other offence specified in section 24 shall be punishable with imprisonment which may extend to two months, or with fine which may extend to two hundred rupees, or with both

26 The competent military authority may in his discretion dismiss any enrolled person from the Auxiliary Force, India

27. The Governor-General in Council may prescribe summary and minor punishments for offences under section 24 or for contravention of any rule or regulation made under this Act to which enrolled persons shall be liable without the intervention of a Criminal Court, and the officer or officers by whom and the circumstances in which and the extent to which such summary and minor punishments may be inflicted, and the manner in which any such punishment may be enforced :

Summary and minor punishments.

* An XLVIII, of 1920.

Provided that no punishment involving any kind of imprisonment shall be imposed as a summary or minor punishment :

Provided further that no summary punishment shall be inflicted in any case in which the accused claims to be tried by a Criminal Court

28. (1) The Local Government shall constitute for each prescribed military area one or more Advisory Committees, each consisting of three or more members, of whom one shall be the competent military authority or a military officer appointed by him in this behalf, and the others shall be persons eligible for enrolment in the Auxiliary Force, India, within the meaning of section 4 who shall be appointed annually by, or under the orders of the Local Government.

(2) Any Advisory Committee constituted for a prescribed military area or a part thereof, as the case may be, which includes a Presidency-town or any other place to which the Governor General in Council may, by order in writing, declare this sub-section to apply, shall consist of not less than five members of whom not more than two shall be persons in the service of Government

(3) The Governor-General in Council shall prescribe the duties, powers and procedure of Advisory Committees and, in particular, the matters in respect of which the competent military authority shall be bound to give effect to a recommendation of an Advisory Committee unless the Local Government otherwise directs.

29. The Governor-General in Council may constitute any corps or unit and may disband any corps or unit constituted under this Act.

Constitution and disbandment of units

Power to make rules
this Act.

30. (1) The Governor-General in Council may make rules to carry out the purposes of

(2) In particular and without prejudice to the generality of the foregoing powers such rules may—

- (a) provide for the appointment of enrolling officers,
- (b) prescribe military areas for the purposes of this Act,
- (c) prescribe the manner in which and the conditions subject to which European British subjects and other persons who are not British subjects may offer themselves for enrolment under this Act ;
- (d) define the manner in which and the conditions under which persons or any class of persons liable to military service under this Act may be excused from being called out or embodied ;
- (e) prescribe the military training to be undergone by persons liable to military training under section 6 but not to military service under section 7,
- (f) prescribe the rates of pay for, and provide for the grant of allowances to persons liable to perform military service under this Act ;

(2) prescribe for any military area which is a railway area or for any area beyond the limits of British India the authorities which shall be deemed respectively to be the Local Government and the District Magistrate for all or any of the purposes of this Act, and

(3) provide for any other matter which under this Act is to be or may be prescribed

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The power to make rules conferred by this section shall except on the first occasion of the exercise thereof, be subject to the condition of previous publication

(5) All rules made under this section shall be published in the *Gazette of India*, and on such publication shall have effect as if enacted in this Act.

31. The Commander-in-Chief of His Majesty's forces in India may make regulations consistent with this Act and the rules made thereunder providing generally for details connected with the organisation and personnel of the Auxiliary Force, India, and for the duties, equipment, military training, allowances and leave of enrolled persons

32. For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, 1898, * all officers non-commissioned officers and men liable to perform military service under this Act who have been appointed to a corps or unit shall be deemed to be officers, non-commissioned officers and soldiers respectively, of His Majesty's Army

33. Save as otherwise provided by section 27, no offence under this Act shall be tried save by a Court not inferior to that of a Presidency Magistrate or Magistrate of the first class.

34. No enrolled person shall be liable to pay any municipal or other tax in respect of a horse bicycle, motor-bicycle, motor car or other means of conveyance which he is authorised by a general or special order of the competent military authority to maintain in his capacity as a member of the Auxiliary Force, India.

35. In section 1 of the Indian Arms Act, 1878, † for the words and figures "a volunteer enrolled under the Indian Volunteers Act, 1869," the words and figures "a member of either of the forces constituted by the Indian Territorial Force Act, 1920, or the Auxiliary Force Act, 1920" and for the word "volunteer" the word "member," shall be substituted.

36. On and from the date on which this Act comes into force, the enactments mentioned in Schedule II, shall be repealed to the extent specified in the fourth column thereof.

* Act V of 1898

† Act XI. of 1878.

SCHEDULE I

(See sections 9, 11, 12 and 15.)

TRAINING.

1. Preliminary,		
(a) for infantry...	...	32 days, and the annual musketry course as laid down in regulations.
(b) for other branches	...	40 days, and the annual musketry or gun course as laid down in regulations.
2. Periodical.		
(1) Active Class.		
(a) for infantry...	...	16 days in each training year, and the annual musketry course as laid down in regulations
(b) for other branches	...	20 days in each training year, and the annual musketry or gun course as laid down in regulations.
(2) First (A) Class Reserve.		
(a) for infantry...	...	6 days in each training year, and the annual musketry course as laid down in regulations.
(b) for other branches	...	10 days in each training year, and the annual musketry or gun course as laid down in regulations.
(3) Second (B) Class Reserve.		
(a) for infantry...	...	} The annual musketry course as laid down for this Class in regulations.
(b) for other branches	..	

NOTE (*cf.* section 15).—A day consists of four hours of actual military drill or instruction, and may be made up of fractions of a day not more than four in number.

SCHEDULE II.

ENACTMENTS REPEALED.

(See section 36)

Year.	No.	Short title.	Extent of repeal
1869	XX.	The Indian Volunteers Act, 1869	The whole.
1891	XII.	The Amending Act, 1891	So much of the Second Schedule as relates to the Indian Volunteers Act, 1869.
1896	X.	The Indian Volunteers Act Amendment Act, 1896.	The whole
1909	V.	The Amending (Army) Act, 1909	So much of the Schedule as relates to the Indian Volunteers Act, 1869.
"	VI.	The Indian Volunteers (Amendment) Act, 1909	The whole.
1915	I.	The Emergency Legislation Continuance Act, 1915.	So much of the Schedule as relates to the Indian Volunteers Ordinance, 1914.
1917	III.	The Indian Defence Force Act, 1917.	The whole
1918	VIII.	The Indian Defence Force (Amendment) Act, 1918.	The whole
"	XXI.	The Indian Defence Force (Foreign Service) Amendment Act 1918.	The whole
1919	VII.	The Indian Defence Force (Amendment) Act 1919.	The whole.

ACT NO. III. OF 1921.

The Code of Civil Procedure (Amendment) Act, 1921.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

Received the assent of the Governor-General on the 27th March, 1921.

An Act further to amend the Code of Civil Procedure, 1908.

Whereas it is expedient further to amend the Code of Civil Procedure, 1908 ;* It is hereby enacted as follows :—

Short title, 1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1921.

Amendment of section 55 Act V, 1908, §. (1) In sub-section (3) of section 55 of the Code of Civil Procedure 1908,* for the words "will be discharged" the words "may be discharged," shall be substituted.

(2) In sub-section (4) of the same section for the words "shall release the words "may release" shall be substituted.

ACT NO. IV. OF 1921.

The Import and Export of Goods (Amendment) Act, 1921.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 27th March, 1921.

An Act further to amend the Import and Export of Goods Act, 1916.

Whereas it is expedient further to amend the Import and Export of Goods Act, 1916,* It is hereby enacted as follows :—

Short title. 1. This Act may be called the Import and Export of Goods (Amendment) Act, 1921.

Amendment of section 1, Act XI of 1916. 2 In sub-section (3) of section 1 of the Import and Export of Goods Act, 1916,† for the words "up to the 31st day of March, 1921," the words "up to the 31st day of March, 1922" shall be substituted

Repeal of Act XIII. of 1920. 3. The Import and Export of Goods (Amendment) Act, 1920,‡ is hereby repealed.

* Act V. of 1908.

† Act XI. of 1916.

‡ Act XIII. of 1920.

ACT NO VII OF 1921.

The Calcutta University Act. 1921.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

Received the assent of the Governor-General on the 27th March 1921.

An Act to amend the law relating to the Calcutta University.

WHEREAS it is expedient to amend the law relating to the Calcutta University, Is is hereby enacted as follows :—

Short title 1. This Act may be called the Calcutta University Act, 1921.

2 In section 4 of the Calcutta University Act. 1857* (hereinafter referred to as the said Act, for the words "Governor-General of India", the words "Governor of the Presidency of Fort William in Bengal" shall be substituted.

3. In sections 5, 7 and 15 of the said Act, for the words "Governor-General of India in Council" in all places where they occur, the words "Local Government of Bengal" shall be substituted

4. The sections of the Indian Universities Act, 1904, † which are specified in the first column of the Schedule, are hereby repealed to the extent specified in the second column thereof.

THE SCHEDULE.

(See section 4)

1	2
Section.	Extent of repeal
2	In clause (b) of sub-section (2) the words "in relation to the University of Calcutta the Governor-General in Council, and in relation to the other Universities"
4	Clause (b) of sub-section (1)—the whole—and in sub section (3) the words "or in the case of the University of Calcutta upon the Chancellor, Rector, Vice-Chancellor and Fellows in their corporate capacity".
5	In sub-section (2) the words in "the Gazette of India or" and the words "as the case may be".
28	The whole.

* Act II. of 1857.

† Act VIII. of 1904.

ACT NO VIII OF 1921.

The Hindu Transfers and Bequests (City of Madras)
Act, 1921.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL,

*Received the assent of the Governor-General on the 27th March 1921.**An Act to declare the rights of Hindus to make transfers and bequests in favour of unborn persons in the City of Madras*

WHEREAS it is expedient to declare the rights of Hindus to make transfers and bequests in favour of unborn persons in the City of Madras, * It is hereby enacted as follows :—

Short title

1. This Act may be called the Hindu Transfers and Bequests (City of Madras)

Act, 1921.

2. (1) This Act shall apply to all transfers *inter vivos* and wills made by persons governed by the Hindu law who are domiciled within the limits of the Ordinary Original Civil Jurisdiction of the High Court of Madras.

(2) In the case of transfers *inter vivos* or wills executed before the date of this Act, the provisions of this Act shall apply to such of the dispositions thereby made as are intended to come into operation at a time which is subsequent to the 14th February, 1914.

Provided that nothing contained in this section shall affect *bona-fide* transferees for valuable consideration in whom the right to any property has vested prior to the date of this Act.

Explanation.—Hindus governed by the Marumakkattayam or the Aliyasantana law shall be deemed to be persons governed by the Hindu Law for the purposes of this Act.

3. A transfer *inter vivos* or disposition by will of any property shall not be invalid by reason only that the transferee or legatee is an unborn person at the date of the transfer or the death of the testator as the case may be.

4. No transfer of property can operate to create an interest which is to take effect after the lifetime of one or more persons living at the date of the transfer and the minority of some person who shall be in existence at the expiration of that period and to whom, if he attains full age the interest created is to belong.

5. No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age the thing bequeathed is to belong.

* Mad Act I. of 1904.

ACT NO. IX. OF 1921

The Enemy Missions Act, 1921.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL

Received the assent of the Governor General on the 27th March, 1921.

An Act to validate certain indentures transferring properties formerly held by certain Enemy Missions in Trustees, and for the incorporation of such Trustees and for other purposes

Whereas the Governor-General in Council, in exercise of the powers conferred by sections 7 and 12 of the Enemy Trading Act, 1916,* vested the properties both moveable and immoveable in British India of the Leipzig Evangelical Lutheran Mission, Madras and Burma, the Schleswig Holstein Evangelical Lutheran Mission, Madras, the Hermannsburg Evangelical Lutheran Mission, Madras, the Basel Mission Madras, Bombay and Coorg, the Gossner Evangelical Lutheran Mission, United Provinces and Bihar and Orissa, the German Evangelical Lutheran Mission, Bihar and Orissa and Assam, and a religious association in Assam styled the Sisters of The Divine Saviour, in certain Custodians of Enemy Property, and by order directed the said Custodians to transfer the properties thereby respectively vested in them to Boards of Trustees on certain trusts which the said Custodians accordingly purported to do by the several indentures, particulars of which are given in the Schedule hereto annexed ; and

Whereas the properties comprised in the several indentures have by diverse mesne appointments become vested in the present Trustees of those indentures , and

Whereas doubts have risen and may arise as to the validity of certain matters in connection with the above-mentioned transfers , and

Whereas it is expedient to terminate such doubts and to constitute the several bodies of Trustees bodies corporate in order that the intention of the said transfers may be fully carried out ,
it is hereby enacted as follows :—

1. This Act may be called the Enemy Missions Act, 1921.

Short title.

2. (1) Each body of persons whose names are set out in the fourth column of the Schedule, and the predecessors in office of those persons, shall be deemed to have been validly appointed the trustees of the indenture or indentures, as the case may be, described in the Schedule opposite the names of the persons comprising that body, and each body of persons, together with the successors in office of those persons, is hereby constituted a body corporate with perpetual succession and a common seal, and may sue and be sued by the corporate name given to it in the fifth column of the Schedule.

Incorporation of Trustees.

* Act X of 1916.

(2) For the purposes of the appointment of the successors of the persons named in the fourth column of the Schedule in their office as such trustees the provisions of the Indian Trusts Act, 1882.* shall be deemed to apply, and appointments of any trustees which are required to be made by the National Missionary Council of India shall be sufficiently made if made by writing under the hand of the Chairman of that body.

3. Notwithstanding anything contained in any enactment or rule of law to the contrary, the indentures described in the Schedule are hereby declared to have been validly made and the properties respectively transferred, or purporting to be transferred, thereby shall be deemed to have been duly transferred by the said indentures, and all acts or things heretofore done under the said indentures are hereby validated and confirmed and every obligation imposed or purporting to be imposed on any person mentioned in any of the said indentures shall be binding in law on the person named therein whether such person is or is not a party to such indenture, and the Trustees referred to in sub-section (1) of section 2 shall have power, in conformity with the indentures of which they are respectively trustees, to transfer or otherwise deal with the properties comprised in those indentures.

Validation of indentures,
etc.

* Act II. of 1882.

THE SCHEDULE.

(See section 2)

Particulars of Indentures and present Trustees thereof

1	2	3	4	5
Date	Parties	Short effect	Name and description of each Indenture at the date of the passing of this Act	Corporate name of the Trustees for the time being of each Indenture from the date of the passing of this Act.
26th January 1920 Registered at Madras on 20th June 1920 being Serial No 2096 of 1920 in Registration Book 1 of the office of the Registrar of Madras Chingleput	Daniel Channer, Custodian of Enemy Property, Madras and Coorg (therein referred to as the Custodian) of the first part and Henry Reginald Pate, Arthur Davies, the Reverend William Meston, the Hon'ble Mr Muthiah David Devadoss Averil and the Reverend Duncan Gordon MacNaughton Leith (therein referred to as the Trustees) of the second part	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immovable in the Madras Presidency and Coorg formerly belonging to or held in Trust for the Basel Mission the Leipzig Evangelical Lutheran Mission, the Schleswig Holstein Evangelical Lutheran Mission and the Hermannsburg Evangelical Lutheran Mission	John Anderson Thorne, I.C.S., Secretary to the Board of Revenue (Land Revenue) Madras Paul Appiswami, Judge of the Court of Small Causes, Madras Muthiah David Devadoss, Barrister at Law, Madras	The Mission Trust of Southern India
31st March 1920, Registered at Madras on 3th August 1920 being Serial No 2197 of 1920 in Registration Book 1 of the office of the Registrar of Madras, Chingleput	Harold Charles Barnes Mitchell, Custodian of Enemy Property, Bombay (therein referred to as the Custodian) of the first part and John Anderson Thorne Arthur Davies, the Reverend William Meston, the Hon'ble Mr Muthiah David Devadoss and the Reverend Duncan Gordon MacNaughton Leith (therein referred to as the Trustees) of the second part	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immovable in the Bombay Presidency formerly belonging to or held in Trust for the Basel Mission	Duncan Gordon MacNaughton Leith, Secretary, Mission's Committee of the National Missionary Council. Anthony Watson Brough of the London Mission Society, Madras	
13th October 1919, Registered at Ghazipur on 23rd January 1920, being Serial No 2 of 1920 in Registration Book 1 of the office of the Registrar of Ghazipur	Shahk Makbul Hosain, Custodian of Enemy Property, United Provinces (therein referred to as the Custodian) of the first part and the Hon'ble Mr Foly, W B Heycock, the Reverend J Z Hodge, Professor S C Mukerjee, the Reverend G J Dunn (therein referred to as the Trustees) of the second part	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immovable in the United Provinces, formerly belonging to or held in Trust for the Gossner Evangelical Lutheran Mission	Frank Frederick Lwall, Commissioner of Chota Nagpur John Tariton Whitt, Deputy Commissioner of Ranchi Herbert Anderson, Secretary, National Missionary Council George James Dunn, Missionary, Patna Satish Chandra Mukerjee, Professor, Serampore College.	The Mission Trust of Northern India

THE SCHEDULE.—*contd*

1.	2.	3.	4.	5.
Date	Parties	Short effect	Name and description of the Trusts at the date of the passing of this Act	Corporate name of the Trustees for the time being of each Indenture from the date of the passing of this Act,
1st October 1919. Registered at Registrar General's Office, Rangoon, being Serial No. 42 of 1919 in Registration Book 1 of the office of the Sub Registrar, Rangoon.	Patrick William Mackenzie, Custodian of Enemy Property, Burma and Orissa (therein referred to as the Custodian) of the one part and Blanchard Foley, William Bissel Hocking, the Reverend John Zimmermann Hodge, Professor S. C. Mukerji and the Reverend George James Dunn (therein referred to as the Trustees) of the other part	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immovable in the Province of Bihar and Orissa formerly belonging to or held in Trust for the German Evangelical Lutheran Mission	Frank Frederick Lyall, Commissioner of Chota Nagpur. John Taitton Whitty, Deputy Commissioner of Ranchi Herbert Anderson, Secretary, National Missionary Council	The Mission Trust of Northern India
16th October 1919. Registered at Registrar General's Office, Rangoon, being Serial No. 42 of 1919 in Registration Book 1 of the office of the Sub Registrar, Rangoon.	Stephen Nanno Mackenzie, Custodian of Enemy Property, Assam (therein referred to as the Custodian) of the one part and the Hon'ble Mr. Blanchard Foley, William Bissel Hocking, the Reverend John Zimmermann Hodge, Professor S. C. Mukerji and the Reverend G. J. Dunn (therein referred to as the Trustees) of the second part	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immovable in Assam formerly belonging to or held in Trust for the German Evangelical Lutheran Mission	George James Dunn, Missionary, Patna Satish Chandra Mukerji, Professor, Serampore College	
17th November 1919. Registered at Registrar General's Office, Rangoon, being Serial No. 206 of 1920 in Registration Book 1 of the office of the Sub Registrar, Rangoon.	John Cormack Mackenzie, Custodian of Enemy Property, Burma (therein referred to as the Custodian) of the one part and John Cormack Mackenzie, Herbert Huddy Mackenzie, Frank Dennison Phunney, the Reverend Clarence Eugene Olmstead, the Reverend Vickerman Nicholson Kemp (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immovable in Burma formerly belonging to or held in Trust for the Leipzig Evangelical Lutheran Mission	John Cormack Mackenzie, Collector of Rangoon Ernest Godfrey Pattle, District Magistrate of Rangoon Frank Dennison Phunney, Superintendent, American Baptist Mission Press, Rangoon D. P. Dura Raj, Saint Gabriels, S. P. G. Mission, Rangoon C. H. Riggs, Principal, Methodist Boys' High School, Rangoon	The Burma Mission Trust

THE SCHEDULE—*contd*

1	2	3	4	5
Date	Parties	Short effect	Name and description of each Indenture at the date of the passing of this Act	Corporate name of the Trustees for the time being of each Indenture from the date of the passing of this Act.
30th April 1920 Registered at Dibrugarh on 23rd June 1920, being Serial No 473 of 1920 in Registration Book E of the office of the Sub Registrar, Dibrugarh	Colonel Courtenay Keywood, Custodian of Enemy Property, Assam (therein referred to as the Custodian) of the first part and the Very Reverend Paul LeFebvre, John McSwiney, Robert Eustace Withham (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immovable in Assam formerly belonging to or held in Trust for the religious association or covenanted order called the Sisters of the Divine Savior	The Very Reverend Paul LeFebvre, Vice Administrator of the Prefecture Apostolic of Assam John McSwiney, Director of Land Records and Agriculture, Assam Robert Eustace Withham, Manager, "Bndia Bcti" Tea Estate, Lakhimpur, Assam	The Assam Roman Catholic Mission Trust

ACT NO. X OF 1921.

The Indian Marine (Amendment) Act, 1921.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

Received the assent of the Governor-General on the 29th September, 1921

An Act further to amend the Indian Marine Act, 1887.

Whereas it is expedient further to amend the Indian Marine Act, 1887*
It is hereby enacted as follows :—

Short title 1. This Act may be called the Indian
Marine (Amendment) Act, 1921

2 In the proviso to sub-section (1) of section 52 of the Indian Marine Act, 1887* (hereinafter referred to as the said Act), for the words "by, or with the previous sanction of the Governor-General in Council the words "by the Governor-General in Council or by the Director of Marine" shall be substituted.

Amendment of section
60 (2), Act XIV, of 1887.

3 In sub section (2) of section 66 of the
said Act, the words "with the previous sanction
of the Governor General in Council " shall be
omitted.

* Act XIV of 1887.

† Substituted by Act 11 of 1923

ACT NO. XI OF 1921.

The Indian Works of Defence (Amendment) Act, 1921.

PASSED BY THE GOVERNOR GENERAL IN COUNCIL

Received the assent of the Governor General on the 29th September, 1921.

An Act further to amend the Indian Works of Defence Act, 1903

Whereas it is expedient further to amend the Indian Works of Defence Act, 1903,* It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Works of Defence (Amendment) Act, 1921

Amendment of section 2,
Act VII of 1903

2. In section 2 of the Indian Works of Defence Act, 1903* (hereinafter referred to as the said Act), for clauses (c) and (d), the following clauses shall be substituted, namely :—

"(c) the expression 'District' means one of the Districts into which India is, for military purposes for the time being, divided ; it includes a Brigade area which does not form part of any District, and any area which the Governor-General in Council may, by notification in the Gazette of India, declare to be a District for all or any of the purposes of this Act,

(d) the expression "General Officer Commanding the District" means the officer for the time being in command of the forces in a District."

Amendment of section 7,
Act VII. of 1903.

3. In section 7 of the said Act—

(a) in sub-clauses (i) and (iv) of clause (a), in the first proviso to sub-clause (i) of clause (b), and in sub-clause (ii) of clause (b), for the words "General Officer Commanding the Division" the words "General officer Commanding the District" shall be substituted ; and

(b) in the first proviso to sub-clause (ii) of clause (a) and in the second proviso to sub-clause (i) of clause (b), for the words "General Officer Commanding the Division, District or Brigade" the words "General Officer Commanding the District" shall be substituted.

Repeal.

4. So much of the Schedule to the Amending (Army) Act, 1909,† as relates to the said Act, is hereby repealed.

* Act VII. of 1903.

† Act VII. of 1909.

Amendment of Section
8, Act III. of 1865.

2. In section 8 of the Carriers Act, 1865 (hereinafter called "the said Act"),—

- (1) the words "negligence or" shall be omitted, and
- (2) after the words "agents or servants" the following words shall be added namely :—

"and shall also be liable to the owner for loss or damage to any such property, other than property to which the provisions of section 3 apply in respect of which the declaration required by that section has not been made, where such loss or damage has arisen from the negligence of the carrier or any of his agents or servants."

Insertion of new section
11 in Act III. of 1865

3. After section 10 of the said Act the following section shall be added, namely —

"11. The Governor-General in Council may, by notification in the Gazette of India, add to the list of articles contained in the Schedule to this Act, and the Schedule shall, on the issue of any such notification, be deemed to have been amended accordingly."

ACT NO. XIV. OF 1921.

The Indian Lac Cess Act, 1921

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL

Received the assent of the Governor-General on the 29th September, 1921.

An Act to provide for the levy of customs-duty on lac exported from British India

WHEREAS it is expedient to provide for the creation of a Fund to be expended for the promotion of the improvement of methods of cultivation and manufacture of lac in India,

And WHEREAS for this purpose it is expedient to levy customs-duty on lac produced in India and exported from British India

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Indian Lac Cess Act, 1921.

(2) It extends to the whole of British India, except Aden.

Definitions,

2. In this Act—

(a) "The Lac Association" means the Indian Lac Association for Research, registered as a society on the twelfth day of September 1921, under the provisions of the Societies Registration Act, 1860 ;*

* Act XXI. of 1860.

- (b) "Collector" means, in reference to lac exported by sea, a Customs-collector as defined in clause (c) of section 3 of the Sea Customs Act, 1878,* and, in reference to lac passing out of British India by land, the Collector of the district ,
- (c) "lac" includes any form of manufactured or unmanufactured lac other than refuse lac ,
- (d) "lac cess" means the customs-duty imposed by section 3 of this Act and by section 5 of the Indian Tariff Act, 1894.†

3. On and from the 1st January, 1922, a customs duty shall be levied and collected on all lac and refuse lac produced in India and exported from any customs-port to any port beyond the limits of British India or to Aden at the rate of 4 annas per maund in the case of lac, and 2 annas per maund in the case of refuse lac, or at such lower rate as the Governor General in Council may, on the recommendation of the Lac Association by notification in the *Gazette of India*, prescribe.

4 (1) At the close of each month, or as soon thereafter as may be convenient, the Collector shall pay the proceeds of the lac cess, after deducting the expenses of collection (if any), to the Lac Association.

(2) The said proceeds and any other monies received by the Lac Association in this behalf shall be applied by the Association towards meeting the cost of such measures as the Association may consider it advisable to take for the promotion of improved methods of certification and manufacture of lac by means of scientific research, experimental cultivation and the dissemination of knowledge, or by such other means, as it may be expedient to employ, for testing the value of the results obtained by such research.

5. (1) The Lac Association shall keep accounts of all monies received and expended under section 4.

(2) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Governor General in Council , and such auditors may disallow any item which has, in their opinion, been expended out of any money so received otherwise than as directed by or under this Act.

(3) If any item is disallowed, an appeal shall lie to the Governor-General in Council whose decision shall be final.

6. (1) The Governor-General in Council may, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

- (a) the levy and payment of the lac cess , and
- (b) the form of accounts to be kept and the publication of an abstract of such accounts with the reports of the auditors thereon

* Act VIII, of 1878

† Act VIII of 1894.

(3) All such rules shall be published in the *Gazette of India*.

Term during which sec-
tions 2 to 6 are to remain
in force

7. Sections 2 to 6 shall remain in force only until the 31st day of December, 1926 :

Provided that the Governor-General in Council may, on the recommendation of the Lac Association, and with the previous consent of the Indian Legislature, declare by notification in the *Gazette of India*, that the said sections shall continue in force for any further period specified in such notification.

Provided also that, if at any time the Lac Association is dissolved, the said sections shall cease to be in force from the date of such dissolution.

8. If any proceeds of the lac cess or any monies, so, received as aforesaid, remain unexpended, when sections 2 to 6 cease to be in force, they shall, notwithstanding anything contained in any law for the time in force, vest in His Majesty.

ACT NO. XV. OF 1921.

The Indian Post Office (Amendment) Act, 1921

PASSED BY THE GOVERNOR GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 29th September, 1922.

An Act further to amend the Indian Post Office Act, 1898.

Whereas it is expedient further to amend the Indian Post Office Act 1898.* It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Post Office (Amendment) Act, 1921.

Amendment of section
24, Act VI. of 1898.

2. In section 24 of the Indian Post Office Act, 1898 (hereinafter referred to as the said Act) the third proviso shall be omitted.

Insertion of a new section
24-A in Act VI. of 1898.

3. After section 24 of the said Act, the following section shall be inserted, namely :—

"24-A. The Governor General in Council may, by general or special order, empower any officer of the Post Office, specified in such order, to deliver any postal article, received from beyond the limits of British India and suspected to contain anything liable to duty, to such Customs authority as may be specified in the said order, and such Customs authority shall deal with such article in accordance with the provisions of the Sea Customs Act, 1878,* or of any other law for the time being in force."

Amendment of section
67, Act VI. of 1898.

4. In section 67 of the said Act, after the words "this Act" the words "or of any other Act for the time being in force" shall be inserted

* Act VI, of 1898.

† Act VIII, of 1878.

ACT NO. XVI. OF 1921.

The Indian Penal Code (Amendment) Act, 1921.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

*Received the assent of the Governor-General on the 29th September, 1921.
An Act further to amend the Indian Penal Code.*

WHEREAS it is expedient further to amend the Indian Penal Code,*
It is hereby enacted as follows :—

Short title 1 This Act may be called the Indian Penal Code (Amendment) Act, 1921.

2 In section 121 and 122 of the Indian Penal Code * (hereinafter referred to as the said Code), for the words "and shall forfeit all his property" the words "and shall also be liable to fine" shall be substituted.

Amendment of section 121 and 122 Indian Penal Code.

3 In section 121A of the said Code, after the words "ten years" the words "and shall also be liable to fine" shall be inserted.

Amendment of sections 121A, Indian Penal Code.

4. Sections 61 and 62 of the said Code are hereby repealed

Repeal of sections 61 and 62, Indian Penal Code.

ACT NO. XVII. OF 1921.

The Cattle-trespass (Amendment) Act, 1921.

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor-General on the 30th September, 1921.

An Act to further amend the Cattle-trespass Act, 1871.

WHEREAS it is expedient further to amend the Cattle-trespass Act, 1871, † It is hereby enacted as follows :—

Short title and commencement. 1. (1) This Act may be called the Cattle-trespass (Amendment) Act, 1911.

(2) This section shall come into force at once.

(3) The rest of the Act shall come into force in any Province or part thereof on such date as the Local Government may, by notification in the local official Gazette, appoint.

Substitution of new section for section 12, Act I of 1871. 2. For section 12 of the Cattle-trespass Act, 1871, † the following section shall be substituted, namely :—

* Act XLV. of 1860.

† Act I. of 1871.

"12. For every head of cattle impounded as aforesaid, the pound keeper shall levy a fine in accordance with the scale for the time being prescribed by the Local Government in this behalf by notification in the official Gazette. Different scales may be prescribed for different local areas.

All fines so levied shall be sent to the Magistrate of the District through such officer as the Local Government may direct.

A list of the fines and of the rates of charge for feeding and watering cattle shall be posted in a conspicuous place on or near to every pound.

3. Section 5 of the Cattle Trespass Act (1871) Amendment Act, 1891,† is hereby repealed.

ACT NO. XVIII. OF 1921.

The Maintenance Orders Enforcement Act, 1921

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL,

*Received the assent of the Governor-General on the 5th October, 1921
An Act to facilitate the enforcements in British India of Maintenance
Orders made in other parts of His Majesty's Dominions
and Protectorates and
vice versa.*

WHEREAS it is expedient to facilitate the enforcement in British India of Maintenance Orders made in other parts of His Majesty's Dominions and Protectorates and *vice versa*; It is hereby enacted as follows :—

1. (1) This Act may be called the Maintenance Orders Enforcement Act, 1921.

(2) It extends to the whole of British India, including the Sonthal Pargannas and British Baluchistan

2. In this Act, unless there is anything repugnant in the subject or context,—

"Court of summary jurisdiction" means the Court of a Chief Presidency Magistrate or of a District Magistrate ;

"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the part of His Majesty's Dominions in which the maintenance order is made ,

"maintenance order" means a decree or order, other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made ;

"prescribed" means prescribed by rules made under this Act ;

"Proper authority" means the authority appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Act applies, and

"reciprocating territory" means any part of His Majesty's Dominions outside British India in respect of which this Act for the time being applies

3 (1) If the Governor General in Council is satisfied that provisions have been made by the Legislature of any part of His Majesty's Dominions for the enforcement within that part of maintenance orders made by Courts in British India, the Governor-General in Council may, by notification in the *Gazette of India*, declare that this Act applies in respect of that part of His Majesty's Dominions and there upon it shall apply accordingly.

(2) The Governor-General in Council may, by like notification, declare that this Act applies in respect of any British protectorate or in respect of any State in India, and where such a declaration has been made, this Act shall apply as if such protectorate or State were a reciprocating territory.

4. (1) Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the Governor-General, the Governor General in Council shall send a copy of the order to the prescribed officer of a Court in British India for registration, and, on receipt thereof, the order shall, be registered in the prescribed manner.

(2) The Court in which an order is to be so registered as aforesaid shall, if the Court by which the order was made was, in the opinion of the Governor-General in Council, a Court of superior jurisdiction, be a High Court, and, if the Court, was not, in his opinion, a Court of superior jurisdiction, be a Court of summary jurisdiction.

5. Where a Court in British India has, whether before or after the commencement of this Act, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory, the Court shall send to the Governor-General in Council, for transmission to the proper authority of that territory, a certified copy of the order.

6. (1) Where application is made to a Court of summary jurisdiction in British India for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person, had wilfully neglected to attend the Court ; but in such case the orders shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

(2) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by him.

(3) Where such an order is made, the Court shall send to the Governor-General in Council, for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(4) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that Court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

(5) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case the depositions shall be sent to the Governor-General in Council and dealt with in like manner as the original depositions.

(6) The confirmation of an order made under this section shall not affect any power of a Court of summary jurisdiction to vary or rescind that order :

Provided that, on the making of a varying or rescinding order, the Court shall send a certified copy thereof to the Governor-General in Council for transmission to the proper authority of the reciprocating territory in which the original order was confirmed or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in British India, and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Governor-General, and it appears to the Governor-General in Council that the person against whom the order has been made is resident in British India, the Governor-General in Council may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons issued under sub-section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds on which objection may be taken.

(4) If at the hearing the person served with the summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in British India, confirm the order either without modification or with such modifications as to the Court after hearing the evidence may seem just :

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to whom the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Governor General in Council for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming Court, and where on an application for rescission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may for that purpose send a certified copy of the record to the Governor-General in Council for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

8. (1) Subject to the provisions of this Act, where an order has been registered under this Act in a High Court, the order shall, from the date of such registration, be of the same force and effect, and all proceedings may be taken thereon as if it had been an order originally obtained in the High Court in the exercise of its civil jurisdiction, or in such Civil Court subordinate to that High Court as may be named by the High Court in this behalf, and that Court shall have power to enforce the order accordingly.

(2) A Court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act, and the officers of such Court, shall have such powers and perform such duties for the purpose of enforcing the order, as may be prescribed.

9. A Court in registering or confirming an order for maintenance in accordance with the provisions of this Act shall direct that the charges for the transmission to the Court, from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

10. For the purposes of this Act, any document purporting to be signed by a Judge or officer of a Court outside British India shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in evidence in proceedings before Courts of summary jurisdiction under this Act.

12. The Governor General in Council may make rules for the purpose of carrying into effect the purposes of this Act, and in particular may make rules for the levy of the costs or charges for anything done under this Act and for all matters which are directed or permitted to be prescribed.

ACT NO. XIX OF 1921.

The Land Acquisition (Amendment) Act, 1921

PASSED BY THE GOVERNOR-GENERAL IN COUNCIL.

Received the assent of the Governor General on the 5th October, 1921.

An Act further to amend the Land Acquisition Act, 1894

WHEREAS it is expedient further to amend the Land Acquisition Act, 1894, * It is hereby enacted as follows .—

Short title. 1. This Act may be called the Land Acquisition (Amendment) Act, 1921.

2. Section 26 of the Land Acquisition Act, 1894* (hereinafter referred to as the said Act, shall be re numbered Amendment of section 26, 26 (1), and to the said section the following sub- Act I of 1894, section shall be added, namely .—

“(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (2), respectively, of the Code of Civil Procedure, 1908.” †

Substitution of new section for section 54, Act I of 1894.

3. For section 54 of the said Act, the following section shall be substituted, namely .—

“54. Subject to the provisions of the Code of Civil Procedure, 1908,† applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to His Majesty in Council subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908 and in Order XLV thereof.”

* Act I of 1894.

† Act V of 1908.

THE
UNREPEALED ACTS
OF THE
GOVERNOR-GENERAL IN COUNCIL
1919—1921

BY
NRISINHADAS BASU, B.L., *Vakil*.



CONTAINING ACTS FROM 1919—1921.

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—
1925.

Published by S. K. Basu, Konnagar (near Calcutta.)

Printed by A. C. Bag at the R. L. Printing Works, 21, Kenderdine Lane,
Calcutta

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(2) "proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate ;

(3) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person ;

(4) "landlord" means a person immediately under whom a tenant holds, and includes the Government ,

(5) "rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by tenant ,

in sections 53 to 68, both inclusive, sections 72 to 75, both inclusive, Chapter XII, [Chapter XIV] and Schedule III of this Act, "rent" includes also money recoverable under any enactment for the time being in force as if it was rent ;

(6) "pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery" ;

(7) "tenure" means the interest of a tenure-holder or an under tenure-holder ,

(8) "permanent tenure" means a tenure which is inheritable and which is not held for a limited time ,

(9) "holding" means a parcel or parcels of land held by a *raiyat* and forming the subject of a separate tenancy ,

† (10) "village" means the area defined, surveyed and recorded as a distinct and separate village in—

(10) "village" means the area defined, surveyed and recorded as a distinct and separate village in—

(a) the general land revenue survey *which has been made of the Province of Bengal, or*

(a) the general land revenue survey *of the districts which heretofore formed part of the Province of Bengal, or*

(b) any survey made by the Government which may be adopted by notifica-

(b) any survey made by the Government which may be adopted by notifica-

* The word and figures "Chapter XIV" in clause (5) of section 3 were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907) s. 4 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & O. Act I of 1908) s. 4 (1),

† This clause (10) applies to Western Bengal. It was substituted for the original clause (10) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 4 (2)

‡ This clause (10) applies to Eastern Bengal. It was substituted for the original clause (10) by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & O. Act I of 1908), s. 4 (2)

The differences in section 3 (10), as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

tion in the Calcutta Gazette as defining villages for the purposes of this clause in any specified area ;

tion in the Eastern Bengal and Assam Gazette as defining villages for the purposes of this clause in any specified area ,

and, where a survey has not been made by, or under the authority of, the Government, such area as the Collector may, with the sanction of the Board of Revenue, by general or special order, declare to constitute a village

and, where a survey has not been made by, or under the authority of, the Government, such area as the Collector may, with the sanction of the Board of Revenue, by general or special order, declare to constitute a village .

Provided that, when an order has been made under section 101 directing that a survey be made and a record of rights prepared in respect of any local area, estate, tenure or part thereof, the Government may, by notification in the Eastern Bengal and Assam Gazette, declare that in such local area, estate, tenure or part thereof " village " shall mean the area which for the purposes of such survey and record-of-rights may be adopted by the Revenue-officer with the sanction of the Board of Revenue as the unit of survey and record.

(11) " agricultural year " means, where the Bengali year prevails, the year commencing on the first day of *Baisakh*, where the *Fash* or *Amh* year prevails, the year commencing on the first day of *Asm*, and, where any other year prevails for agricultural purposes, that year ;

(12) " Permanent Settlement " means the Permanent Settlement of Bengal, [*Bihar and Orissa*,] made in the year 1793 ;

(13) " succession " includes both intestate and testamentary succession ;

(14) " signed " includes " marked," when the person making the mark is unable to write his name ; it also includes " stamped " with the name of the person referred to ;

(15) " prescribed " means prescribed from time to time by the Local Government by notification in the official Gazette ;

(16) "Collector" means the Collector of a district or any other officer appointed by the Local Government to discharge any of the functions of a Collector under this Act ;

(17) "Revenue-officer", in any provision of this Act, includes any officer whom the Local Government may appoint, by name or by virtue of his office, to discharge any of the functions of a Revenue-officer under that provision ,

(18) "registered" means registered under any Act for the time being in force for the registration of documents.

CHAPTER II.

CLASSES OF TENANTS.

Classes of tenants. 4. There shall be, for the purposes of this Act, the following classes of tenants (namely) :—

- (1) tenure-holders, including under-tenure-holders,
- (2) *rayats*, and
- (3) under-*rayats*, that is to say, tenants holding, whether immediately or mediately, under *rayats* ;

and the following classes of *rayats* (namely) :—

- (a) *rayats* holding at fixed rates, which expression means *rayats* holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity:
- (b) occupancy-*rayats*, that is to say, *rayats* having a right of occupancy in the land held by them, and
- (c) non-occupancy-*rayats*, that is to say, *rayats* not having such a right of occupancy

5. (1) "Tenure-holder" means primarily a person who has acquired from a proprietor or from another tenure holder a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it, and includes also the successors in interest of Persons who have acquired such a right.

(2) "*Rayat*" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family or by hired servants, or with the aid of partners, and includes also the successors in interest of persons who have acquired such a right.

Explanation—Where a tenant of land has the right to bring it under cultivation he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it,

(3) A person shall not be deemed to be a *raiyat* unless he holds land either immediately under a proprietor or immediately under a tenure holder.

(4) In determining whether a tenant is a tenure-holder or a *raiyat*, the Court shall have regard to—

(a) local custom, and

(b) the purpose for which the right of tenancy was originally acquired.

(5) Where the area held by a tenant exceeds one hundred standard *bighas*, the tenant shall be presumed to be a tenure-holder until the contrary is shown.

CHAPTER III

TENURE-HOLDERS.

Enhancement of rent.

Enhancement of rent.
Tenure held since Permanent Settlement liable to enhancement only in certain cases

6 Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

(a) that the landlord under whom it is held is entitled to enhance the rent thereof either by local custom or by the conditions under which the tenure is held, or

(b) that the tenure holder, by receiving reductions of his rent, otherwise than on account of a diminution of the area of the tenure, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

7. (1) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

(2) Where no such customary rate exists it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

(3) In determining what is fair and equitable, the Court shall not leave to the tenure holder as profit less than 10 per centum of

the balance which remains after deducting from the gross rents payable to him the expenses of collecting them and shall have regard to—

- (a) the circumstances under which the tenure was created, for instance, whether the land comprised in the tenure or a great portion of it, was first brought under cultivation by the agency or at the expense of the tenure holder or his predecessors in interest, whether any fine or premium was paid on the creation of the tenure and whether the tenure was originally created at a specially low rent for the purpose of reclamation, and
- (b) the improvements, if any, made by the tenure-holder or his predecessors in interest.

(4) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

8. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual, that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

9. When the rent of a tenure-holder has been enhanced by the Court or by contract, it shall not be again enhanced by the Court during the fifteen years next following the date on which it has been so enhanced.

Other incidents of tenures.

10. A holder of a permanent tenure shall not be ejected by his landlord except on the ground that he has broken a condition on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected.

Provided that where the contract is made after the commencement of this Act, the condition is consistent with the provisions of this Act

11. Every permanent tenure shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as other immovable property.

12 (r) A transfer of a permanent tenure by sale, gift or mortgage (other than a transfer by a sale in execution of a decree or by summary sale under any law relating to *patni* or other tenures) can be made only by a registered instrument.

(2) A registering officer shall not register any instrument purporting or operating to transfer by sale, gift or *[usufructuary] mortgage a permanent tenure unless there is paid to him, in addition to any fees payable under the Act for the time being in force the registration of documents a process-fee of the prescribed amount and a fee (hereinafter called "the landlord's fee") of the following amount, namely :—

(a) when rent is payable in respect of the tenure, a fee of two *per centum* on the annual rent of the tenure, provided that no such fee shall be less than one rupee or more than one hundred rupees, and

(b) when rent is not payable in respect of the tenure, a fee of two rupees,

†[together with the costs necessary for the transmission of the landlord's fee to the landlord.

(3) When the registration of any such instrument is complete the registering officer shall send to the Collector the landlord's fee [the costs necessary for the transmission of the same]† and a notice of the transfer and registration in the prescribed form and the Collector shall cause the fee to be [transmitted] to and the notice to be served on the landlord †[named in the notice], in the prescribed manner.

13. (1) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, ‡ [or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed,] the Court shall, before confirming the sale under section 312§ of the Code of Civil Procedure, ‡ [or making a decree or order absolute for the foreclosure,] require the purchaser‡ [or mortgagee] to pay into Court the landlord's fee prescribed by the last foregoing section, || [together with the costs necessary for its transmi-

* This word "usufructuary" in s. 12 (2) was inserted by the Bengal Tenancy (Amendment) Act 1886 (VIII of 1886) s. 1

† These words in square brackets were added to section 12 (2) for Western Bengal by the Bengal Tenancy (Amendment) Act 1907 (Ben. Act I of 1907) s. 5, (1) and for Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act 1908 (E. B. & A. Act I of 1908)

§ Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to rule 92 in order XXI in Sch. I to that Code—see section 158 thereof

‡ These words in square brackets in s. 13 (1) were inserted by the Bengal Tenancy (Amendment) Act 1886 (VIII of 1886)

|| The words within brackets were inserted for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), and for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908)

-sion to the landlord,] and such further fee for service of notice of the sale* [or final foreclosure] on the landlord as may be prescribed.

(2) When the sale has been confirmed,*[or the decree or order of the Court for the foreclosure has been made,] the Court shall send to the Collector the landlord's fee, † [the costs necessary for the transmission of the same,] and a notice of the sale* [or final foreclosure] in the prescribed form, and the collector shall cause the fee to be† [transmitted] to, and the notice to be served on, the landlord‡ [named in the notice], in the prescribed manner.

14 (Transfer of permanent tenure by sale in execution of decree for rent.) Rep. in Western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 2, and in Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 2.

15. When a succession to a permanent tenure takes place, the person succeeding shall give notice of the succession to the Collector in the prescribed form and shall pay to the Collector the prescribed fee for the service of the notice on the landlord and the landlord's fee prescribed by section 12 * [together with the costs necessary for its transmission to the landlord], and the Collector shall cause the landlord's fee to be* [transmitted] to, and the notice to be served on, the landlord * [named in the notice], in the prescribed manner.

16. A person becoming entitled to a permanent tenure by succession shall not be entitled to recover by suit, distraint or other proceeding any rent payable to him as the holder of the tenure, until the Collector has received the notice, * [fees and costs] referred to in the last foregoing section.

17. Subject to the provisions of section 88, the foregoing sections shall apply to the transfer of, or succession to, a share in a permanent tenure.

* Vide foot-note ‡ at page 15.

† The words within brackets were inserted, for Western Bengal, by Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 6 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. and A. Act I of 1908).

CHAPTER IV.

Raiyats HOLDING AT FIXED RATES.

Incidents of holding at fixed rates. **18** A *raiayat* holding at a rent, or rate of rent, fixed in perpetuity—

- (a) shall be subject to the same provisions with respect to the transfer of, and succession to, his holding as the holder of a permanent tenure, and
- (b) shall not be ejected by his landlord, except on the ground that he has broken a condition consistent with this Act, and on breach of which he is, under the liable terms of a contract between him and his landlord, liable to be ejected.

CHAPTER IVA *

† CHAPTER IVA.

PROVISIONS AS TO TRANSFERS OF TENURES AND HOLDINGS AND LANDLORD'S FEES

18A. Nothing contained in any instrument Saving as to any instrument statements in of transfer to instruments of which the transfer where landlord is not landlord no a party shall party. be evidence against the landlord of the permanence, amount or fixity of rent, area, transferability or any incident of any tenure or holding referred to in such instrument.

PROVISIONS AS TO TRANSFERS OF TENURES AND HOLDINGS AND LANDLORD'S FEES.

18A *Notwithstanding anything contained in section 13† of the Indian Evidence Act,* Notwithstanding anything contained in any instrument of transfer to which the landlord is not a party shall be evidence against the landlord of the permanence, the amount or fixity of rent, the area, the transferability or any incident of any tenure or holding referred to in such instrument.

* This Chapter IVA (sections 18A to 18C) applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 8

† This Chapter IVA (sections 18A to 18C) applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 8

‡ Section 13 of Act I of 1872.

18B. The acceptance by a landlord of any acceptance of landlord's fee payable under Chapter III or Chapter IV in respect of any tenure or holding shall not operate—

(c) as an admission as to the permanence, amount or fixity of rent, area, transferability or any incident of such tenure or holding, or

(d) as an express consent under section 88 to the division of such tenure or holding, or to the distribution of the rent payable in respect thereof.

***18C.** All landlord's fees paid Forfeiture of under Chapter unclaimed land- III or Chapter lord's fees. IV which are held in deposit on or after the commencement of the *Bengal Tenancy (Amendment) Act, 1907*, may, unless accepted or claimed by the landlord within three years from such commencement or from the date of the service of the notice prescribed in section 12, section 13 or section 15 (as the case may be), whichever is later, be forfeited to the Government.

18B. The acceptance by a Saving as to landlord of any acceptance of landlord's fee payable under Chapter III or Chapter IV in respect of any tenure or holding shall not operate—

(a) as an admission of the permanence, the amount or fixity of rent, the area, the transferability or any incident of such tenure or holding, or

(b) as an express consent under section 88 to the division of such tenure or holding, or to the distribution of the rent payable in respect thereof.

†**18C.** All landlords fees paid Forfeiture of under Chapter unclaimed land- III or Chapter lord's fees. IV, which are held in deposit on or after the commencement of the *Eastern Bengal and Assam Tenancy (Amendment) Act, 1908*, may, unless accepted or claimed by the landlord within three years from such commencement or from the date of the service of the notice prescribed in section 12, section 13 or section 15 (as the case may be), whichever is later, be forfeited to the Government.

* This s. 18C is new, and applies to Western Bengal—see foot note, on last page.

† This s. 18C is new, and applies to Eastern Bengal—see foot-note on last page

CHAPTER V. OCCUPANCY-RAIYATS

General.

*19. (1) Every raiyat who, Continuan- of immediately be-
existing occupan- fore the com-
cy rights mencement of
this Act† or the Bengal Tenancy
(Amendment) Act, 1907, has, by
the operation of any enactment,
by custom, or otherwise, a right
of occupancy in any land, shall,
when this Act‡ or the Bengal
Tenancy (Amendment) Act, 1907,
comes into force, have a right of
occupancy in that land

§ (2) The exclusion from the
operation of this Act, by a noti-
fication under sub sec (3) of sec. 1,
of any area constituted a Muni-
cipality under the provisions of
the Bengal Municipal Act, 1884
or of any part of such area, or
the inclusion of any area in the
town of Calcutta by notification
under section 637 of the
Calcutta Municipal Act, 1899,
shall not affect any right, obliga-
tion or liability previously
acquired, incurred or accrued
in reference to such area.

† 19. (1) Every raiyat who
Continuan- of immediately be-
existing occupan- fore the com-
cy rights mencement of
this Act has, by the operation
of any enactment, by custom, or
otherwise, a right of occupancy
in any land, shall, when this
Act comes into force, have a
right of occupancy in that land.

‡ (2) The exclusion from the
the operation of this Act, by a
notification under sub-section
(3) of section 1, of any area
constituted a Municipality under
the provisions of the Bengal
Municipal Act, 1884, or of any
part of such area, shall not
affect any right, obligation or
liability previously acquired, in-
curred or accrued in reference
to such area

* This section 19 applies to Western Bengal. The original section 19 was re-numbered 19 (1) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 9 (1).

† This section 19 applies to Eastern Bengal. The original section 19 was re-numbered 19 (1) by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 9 (1).

‡ The words and figures "or the Bengal Tenancy (Amendment) Act, 1907," in this section 19, were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 9 (2).

§ This sub-section (2) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907) s. 9 (3).

‡ This sub-section (2) was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 9 (2).

20. (1) Every person who, for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a *raiyat* land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled *raiyat* of that village

(2) A person shall be deemed, for the purposes of this section, to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times.

(3) A person shall be deemed, for the purposes of this section to have held as a *raiyat* any land held as a *raiyat* by a person whose heir he is.

(4) Land held by two or more co sharers as *rayayti* holding shall be deemed, for the purposes of this section, to have been held as a *raiyat* by each such co-sharer.

(5) A person shall continue to be a settled *raiyat* of a village as long as he holds any land as a *raiyat* in that village and for one year thereafter.

(6) If a *raiyat* recovers possession of land under section 87, he shall be deemed to have continued to be a settled *raiyat* notwithstanding his having been out of possession more than a year.

(7) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a *raiyat* it shall, as between him and the landlord under whom he holds the land, be presumed for the purposes of this section, until the contrary is proved or admitted, that he has for twelve years continuously held that land or some part of it as a *raiyat*.

21. (1) Every person who is a settled *raiyat* of a village within the meaning of the last foregoing section, shall have a right of occupancy in all land for the time being held by him as a *raiyat* in that village.

(2) Every person who, being a settled *raiyat* of a village within the meaning of the last foregoing section, held land as a *raiyat* in that village at any time between the second day of March, 1883, and the commencement of this Act, shall be deemed to have acquired a right of occupancy in that land under the law then in force, but nothing in this sub-section shall affect any decree or order passed by a Court before the commencement of this Act,

* 22. (1) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the entire interests of the landlord and the raiyat in the holding become united in the same person by transfer, succession or otherwise, ‡ [such person shall have no right to hold the land as a *tenant*, but shall hold it as a proprietor or permanent tenure-holder (as the case may be)], but nothing in this subsection shall prejudicially affect the rights of any third person.

(2) If the occupancy right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, ¶ [he shall be entitled to hold the land subject to the payment to his co-proprietors or joint permanent tenure-holders of the shares of the rent which may be from time to time payable to

† 22. (1) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the the entire interests of the landlord and the *rai*yat in the holding become united in the same person by transfer, succession or otherwise, § [such person shall have no right to hold the land as a *ra**yat, but shall hold it as a proprietor or permanent tenure holder (as the case may be)], but nothing in this subsection shall prejudicially affect the rights of any third person,

(2) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure holder, ¶ [such person shall have no right to hold the land as a *rai*yat, but shall hold it as a proprietor or permanent tenure holder, as the case may be, and shall pay to his co-sharers a fair and

* This section 22 applies to Western Bengal

† This section 22 applies to Eastern-Bengal.

‡ These words in square brackets in this section 22 (1) were substituted for the words "the occupancy-right shall cease to exist," for Western Bengal. by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907) s. 10 (a)

§ These words in square brackets in this section 22 (1) were substituted for the words "the occupancy-right shall cease to exist," for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. and A. Act I of 1908). s. 10 (a),

¶ The portion of this section 22 (2) which is printed in square brackets on this page and the next page was substituted for the words "it shall cease to exist, but nothing in this sub-section shall prejudicially affect the rights of any third person", for Western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 10 (b)

¶ The portion of this section 22 (2) which is printed in square brackets on this page and the next page was substituted for the words "it shall cease to exist, but nothing in this sub section shall prejudicially affect the rights of any third person," for Eastern Bengal by Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A Act I of 1908). s. 10 (b).

them; and, if such transferee sub-lets the land to a third person, such third person, shall be deemed to be a tenure holder or a raiyat, as the case may be, in respect of the land, equitable sum for the use and occupation of the same.]

Illustration—A, a co-sharei landlord, purchases the occupancy-holding of a raiyat X. A is entitled himself to hold the land on payment to his co-sharers of the sharers of the rent payable to them in respect of the holding. A sub-lets the land to Y, who takes it for the purpose of establishing tenants on it, Y becomes a tenure holder in respect of the land. Or A sub-lets, it to Z, who takes it for the purpose of cultivating it himself; Z becomes a raiyat in respect of the land.]

*(3) In determining from time to time what is a fair and equitable sum under sub-section (2), regard shall be had to the rent payable by the occupancy-raiyat at the time of the transfer, and to the principles of this Act regulating the enhancement or reduction of the rents of occupancy raiyats.

(3) A person holding land as an *iyaradar* or farmer of rents shall not, while so holding, acquire, †[by purchase or otherwise], a right of occupancy in any land comprised in his *iyaru* or farm

‡(4) A person holding land as an *iyaradar* or farmer of rents shall not, while so holding, acquire, §[by purchase or otherwise], a right of occupancy in any land comprised in his *iyara* or farm.

* This sub-section (3) was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 10 (c)

† These words in square brackets in this section 22 (3) were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), 10 (c).

‡ The original sub-section (3) was re-numbered as sub-section (4), for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 10 (d)

§ These words in square brackets in this section 22 (4) were inserted for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 10 (e)

The difference in section 22, as in force in Western Bengal and in Eastern Bengal respectively, lie in the words printed in italics.

Explanation—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure-holder, or by subsequently holding the land in *ijara* or farm.

Incidents of occupancy-right.

23. When a *raiyat* has a right of occupancy in respect of any land, he may use the land in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy, but shall not be entitled to cut down trees in contravention of any local custom.

Rights of raiyat in respect of use of land. **24.** An occupancy-*raiyat* shall pay rent for his holding at fair and equitable rates.

Obligation of raiyat to pay rent. **25.** An occupancy-*raiyat* shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground—

- (a) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, or
- (b) that he has broken a condition consistent with the provisions of this Act, and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

26 If a *raiyat* dies intestate in respect of a right of occupancy, it shall, subject to any custom to the contrary, descend in the same manner as other immovable property : provided that in any case in which under the law of inheritance to which the *raiyat* is subject his other property goes to the Crown, his right of occupancy shall be extinguished.

Enhancement of rent.

27. The rent for the time being payable by an occupancy-*raiyat* shall be presumed to be fair and equitable and until the contrary is proved.

Presumption as to fair and equitable rent. **28** Where an occupancy-*raiyat* pays his rent in money, his rent shall not be enhanced except as provided by his Act.

Restriction on enhancement of money-rents. **29.** The money-rent of any occupancy-*raiyat* may be enhanced by contract, subject to the following conditions :—

- (a) the contract must be in writing and registered ;
- (b) the rent must not be enhanced so as to exceed by more than two annas in the rupee the rent previously payable by the *raiyat* ;

- (c) the rent fixed by the contract shall not be liable to enhancement during a term of fifteen years from the date of the contract

Provided as follows—

- (i) Nothing in clause (a) shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.
- * (ii) Nothing in clause (b) shall apply to a contract by which a *raiyat* binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be effected in respect of the holding by, or at the expense of, his landlord, and to the benefit of of which the *raiyat* is not otherwise entitled; but an enhanced rent fixed by such a contract shall be payable only when the improvement has been effected, and except when the *raiyat* is chargeable with default in respect of the improvement, only so long as the improvement exists and substantially produces its estimated effect in respect of the holding.
- (iii) When a *raiyat* has held his land at a specially low rate of rent in consideration of cultivating a particular crop for the convenience of the landlord, nothing in clause (b) shall prevent the *raiyat* from agreeing, in consideration of his being released from the obligation of cultivating that crop, to pay such rent as he may deem fair and equitable.

30. The landlord of a holding held at a money-rent by an occupancy-*raiyat* may, subject to the provisions of this Act, institute a suit to enhance the rent on one or more of the following grounds (namely) :—

- * [(a) that the rate of rent paid by the *raiyat* is below the prevailing rate paid by occupancy-*raiyyats* for land of a similar description and with similar advantages in the same village or in neighbouring villages, and that there is no sufficient reason for his holding at so low a rate ;]

* This clause (a) in s 30 was substituted for the original clause (a) by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act III of 1898), s. 2. The original clause ran thus :—

“(a) that the rate of rent paid by the *raiyat* is below the prevailing rate paid by occupancy-*raiyyats* for land of a similar description and with similar advantages in the same village, and that there is no sufficient reason for his holding at so low a rate ;”

- (b) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent ;
- (c) that the productive powers of the land held by the *raiyat* have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the preset rent ,
- (d) that the productive powers of the land held by the *raiyat* have been increased by fluvial action.

Explanation — ' Fluvial action ' includes a change in the course of a river rendering irrigation from the river practicable when it was not previously practicable.

Rules as to enhancement on ground of prevailing rate **31.** Where an enhancement is claimed on the ground that the rate of rent paid is below the prevailing rate—

- (a) in determining what is the prevailing rate the Court shall have regard to the rates generally paid during a period of not less than three years before the institution of the suit, and shall not decree an enhancement unless there is a substantial difference between the rate paid by the *raiyat* and the prevailing rate found by the Court ;
- (b) if in the opinion of the Court the prevailing rate of rent cannot be satisfactorily ascertained without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure* by such Revenue-officer as the Local Government may authorize in that behalf by rules made under section 392 of the said Code ;
- (c) in determining under this section the rate of rent payable by a *raiyat*, his caste shall not be taken into consideration, unless it is proved that by local custom caste is taken into account in determining the rate ; and, whenever it is found that by local custom any description of *raiya*s hold land at favourable rates of rent, the rate shall be determined in accordance with that custom ,
- (d) in ascertaining the prevailing rate of rent the amount of any enhancement authorized on account of a landlord's improvement shall not be taken into consideration ;

* Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to section 78 of, and Order XXVI in Sch. I to, that Code—see s. 158.

- * (c) if a favourable rate has been determined under clause (c) for any description of *raiyats*, such rate may, if the Court thinks fit, be left out of consideration in ascertaining the prevailing rate ;
- * (f) if the holding is held at a lump rental, the determination of the rent to be paid may be made by ascertaining the different classes of land comprised within the holding, and applying to the area of each class the prevailing rate paid on that class within the village or neighbouring villages.]

[†]31A. (1) In any district or part of a district to which this sub-section is extended by the Local Government by notification in the Calcutta Gazette, whenever the prevailing rate for any class of land is to be ascertained under section 30, clause (a), by an examination of the rates at which lands of a similar description and with similar advantages are held within any village or villages, the highest of such rates at which and at rates higher than which the larger portion of those lands is held may be taken to be the prevailing rate.

Illustrations

- (a) The rates at which land of a similar description and with similar advantages is held in a village are as follow, —

<i>Bighas.</i>					Rs.	A	P
100	..	..	..	at	1	0	0
200	...	..	..	"	1	8	0
150	...	...	..	"	1	12	0
100	..	...	..	"	2	0	0
150	...	...	...	"	2	4	0
Total	700						

Then Rs. 2-4 is not the prevailing rate because only 150 *bighas*, or less than half are held at that rate. Rs. 2 is not the prevailing rate, because 250 *bighas* or less than half are held at that or a higher rate. Re 1 1-2 is the prevailing rate because 400 *bighas* or more than half, are held either at this or a higher rate and this is the highest rate at which and at rates higher than which, more than half the land is held.

- (b) The rates at which land of a similar description and with similar advantages is held in a village are as follow —

<i>Bighas.</i>					Rs.	A	P
100	...	...	...	at	1	0	0
250	...	...	...	"	1	4	0
150	...	...	...	"	1	8	0
150	...	...	..	"	1	12	0
50	...	...	...	"	2	0	0
Total	700						

* Clauses (c) and (f) were inserted in s. 31 by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act III of 1898), s. 3.

† Section 31A was inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act III of 1898) s. 4.

Then, for the reasons given in Illustration (a) neither Rs. 2 nor Re 1-12 is the prevailing rate nor is Re 1-8 the prevailing rate because only 350 bighas (exactly half) are held at Re 1-8 or at rates higher than Re 1-8. In this case Re 1-4 is the prevailing rate because more than half the lands are held at Re 1-4 or higher rates and this is the highest rate at which and at rates higher than which more than half the land is held.

(2) The Local Government may, by a like notification, withdraw sub-section (1) from any district or part of a district to which it has been extended as aforesaid.

***31B** When the prevailing rate has once been determined by a Revenue-officer under Chapter X or by a Civil Court in any suit under this Act, it shall not be liable to enhancement save on the ground and to the extent specified in section 30, clause (b) and section 32.

Rules as to enhancement on ground of rise in prices. **32.** Where an enhancement is claimed on the ground of a rise in prices—

- (a) the Court shall compare the average prices during the decennial period immediately preceding the institution of the suit with the average prices during such other decennial period as it may appear equitable and practicable to take for comparison,
- (b) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous decennial period taken for purposes of comparison: provided that in calculating this proportion, the average prices during the later period shall be reduced by one third of their excess over the average prices during the earlier period,
- (c) if in the opinion of the Court it is not practicable to take the decennial periods prescribed in clause (a), the Court may, in its discretion, substitute any shorter periods therefor.

Rules as to enhancement on ground of landlord's improvement. **33** (1) Where an enhancement is claimed on the ground of a landlord's improvement—

- (a) the Court shall not grant an enhancement unless the improvement has been registered in accordance with this Act;
- (b) in determining the amount of enhancement the Court shall have regard to—
 - (i) the increase in the productive powers of the land caused or likely to be caused by the improvement,

* Section 31B was inserted by the Bengal Tenancy (Amendment) Act, 1898 (Etn. Act III of 1898), s. 4.

- (i.) the cost of the improvement,
- (ii) the cost of the cultivation required for utilizing the improvement, and
- (iv) the existing rent and the ability of the land to bear a higher rent.

(2) A decree under this section shall on the application of the tenant or his successor in interest be subject to reconsideration in the event of the improvement not producing or ceasing to produce the estimated effect

34 Where an enhancement is claimed on the ground of an increase in productive powers due to fluvial action—
 Kuch, as to enhancement on ground of increase in productive powers due to fluvial action.

(a) the Court shall not take into account any increase which is merely temporary or casual ,

(b) the Court may enhance the rent to such an amount as it may deem fair and equitable but not so as to give the landlord more than one-half of the value of the net increase in the produce of the land.

35. Notwithstanding anything in the foregoing sections, the Court shall not in any case decree any enhancement which is under the circumstances of the case unfair or inequitable.
 Enhancement by suit to be fair and equitable.

36. If the court passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the *raiyat*, it may direct that the enhancement shall be gradual ; that is to say, that the rent shall increase yearly by degrees for any number of years not exceeding five until the limit of the enhancement decreed has been reached.
 power to order progressive enhancement.

37. (1) A suit instituted for the enhancement of the rent of a holding on the ground that the rate of rent paid is below the prevailing rate, or on the ground of a rise in prices, shall not be entertained if within the fifteen years next preceding its institution the rent of the holding has been enhanced by a contract made after the second day of March, 1883, or if within the said period of fifteen years the rent has been commuted under section 40, or a decree has been passed under this Act or any enactment repealed by this Act enhancing the rent on either of the grounds aforesaid or on any ground corresponding thereto or dismissing the suit on the merits.
 Limitation of right to bring successive enhancement-suits.

(2) Nothing in this section shall affect the provisions of section 373 of the Code of Civil Procedure*

Reduction of rent.

38. (1) An occupancy-*raiyat* holding at a money-rent may institute a suit for the reduction of his rent on the following grounds, and, except as hereinafter provided in the case of a diminution of the area of the holding, not otherwise (namely).—

- (a) on the ground that the soil of the holding has without the fault of the *raiyat* become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual, or
- (b) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent.

(2) In any suit instituted under this section, the Court may direct such reduction of the rent as it thinks fair and equitable.

Price lists.

39. (1) The Collector of every district shall prepare, monthly, or at shorter intervals, periodical lists of the market-prices of staple food-crops grown in such local areas as the Local Government may from time to time direct, and shall submit them to the Board of Revenue † for approval or revision.

(2) The Collector may, if so directed by the Local Government, prepare for any local area like price-lists relating to such past times as the local Government thinks fit, and shall submit the lists so prepared to the Board of Revenue for approval or revision.

(3) The Collector shall, one month before submitting a price-list to the Board of Revenue † under this section, publish it in the prescribed manner within the local area to which it relates, and if any landlord or tenant of land within the local area, within the said period of one month, presents to him in writing any objection to the list, he shall submit the same to the Board of Revenue with the list.

(4) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette; and any

* Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure 1908 (Act V. of 1908), and this reference should now be taken to be made to rule 1 in order XXIII in Sch 1 to that Code—see s 168,

† Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orissa and Assam Law Act, 7 of 1912), A, B. and Sch. D,

manifest error in any such list discovered after its publication may be corrected by the Collector with the sanction of the Board of Revenue.

(5) The Local Government shall cause to be compiled from the periodical lists prepared under this section lists of the average prices prevailing throughout each year, and shall cause them to be published annually in the official Gazette

(6) In any proceedings under this Chapter for an enhancement or reduction of rent on the ground of a rise or fall in prices, the Court shall refer to the lists published under this section, and shall presume that the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct* [and may presume that the prices shown in the lists prepared for any year prior to the passing of this Act are correct] unless and until it is proved that they are incorrect.

(7) The Local Government,† shall make rules for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists under this section.

Commutation.

40. (1) Where an occupancy-*raiyat* pays for a holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, ‡[or partly in any of those ways and partly in cash], either the *raiyat* or his landlord may apply to have the rent commuted to a money-rent.

(2) The application may be made to the Collector or Sub-divisional Officer, or to §[a Revenue-officer appointed by the Local Government] under the designation of Settlement Officer or Assistant Settlement Officer for the purpose of making a survey and record-of-rights] under Chapter X, or to any other

* These words in square brackets in s 39 (6) were inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act III of 1898), s. 5

† Certain words after this repealed Act 38 of 1920 have been omitted,

‡ The words "or partly in any of those ways and partly in cash," in s. 40 (1), were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act 1907 (Ben. Act I of 1907), s 11 (i), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B & A Act I of 1908) s. 11 (i).

§ These words in square brackets in s. 40 were substituted for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), sec. 11 (ii), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B. & A. Act I of 1908), s 11 (ii).

¶ Now the Governor in Council of Fort William in Bengal—see the Bengal Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s. 3, and Sch. D, items 1 and 2.

officer specially authorized in this behalf by the "Local Government" * [Board of Revenue]

(3) On the receipt of the application the officer may determine the sum to be paid as money-rent, and may order that the *raiyat* shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(4) In making the determination the officer shall have regard to—

- (a) the average money-rent payable by occupancy *raiyats* for land of a similar description and with similar advantages in the vicinity,
- (b) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available, †
- (c) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges; [and
- (d) improvements effected by the landlord or by the occupancy-*raiyat* in respect of the *raiyat's* holding, and to the rules laid down in section 33 regarding enhancement of rent on the ground of a landlord's improvement].

(5) The order shall be in writing, shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue proceeding.

(6) If the application is opposed, the officer shall consider whether under all the circumstances of the case it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it, he shall record in writing the reasons for the refusal.

‡ 40A. (1) Where the rent of a holding has been commuted under section 40, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration of the area of the holding, be enhanced for fifteen years: nor shall it be reduced for fifteen years, save on the ground of alteration in the area of the holding, or on the ground specified in clause (a) of sub section (1) of section 38

* Read the words "Board of Revenue" for the words "Local Government" in the new Provinces of Bihar and Orissa—Vide B & O III Act III of 1918

† The word "and", in clause (b), was repealed, in Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 11 (ii), and, in Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act 1908 (E. B. & A Act I of 1908) s. 11 (ii).

‡ Section 40A was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907) s. 12, and, for Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 12.

(2) The said period of fifteen years shall be counted from the date on which the order takes effect under sub-section (5) of section 40.

CHAPTER VI.

NON-OCCUPANCY-RAIYATS.

41. This Chapter shall apply to *raiyats* not having a right of occupancy, who are in this Act referred to as non-occupancy-*raiyats*.

42. When a non-occupancy-*raiyat* is admitted to the occupation of land, he shall become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission,

43. The rent of a non-occupancy-*raiyat* shall not be enhanced except by registered agreement or by agreement under section 46 :

Provided that nothing in this section shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

44. A non-occupancy-*raiyat* shall, subject to the provisions of this Act, be liable to ejectment on one or more of the following grounds, and not otherwise (namely) :—

- (a) on the ground that he has failed to pay an arrear of rent ,
- (b) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected ;
- (c) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired ;
- (d) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 46, or that the term for which he is entitled to hold at such a rent has expired.

45 (Conditions of ejectment on ground of expiration of lease.) Rep. in Western Bengal by the Bengal Tenancy (Amendment) Act 1907 (Ben Act 1 of 1907), s. 2, and in Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 2.

46. (1) A suit for ejectment on the ground of refusal to agree to an enhancement of rent shall not be instituted against a non-occupancy *raiyat* unless the landlord has tendered to the *raiyat* an agreement to pay the enhanced rent, and the *raiyat* has within three months before the institution of the suit refused to execute the agreement

Conditions of ejectment on ground of refusal to agree to enhancement.

(2) A landlord desiring to tender an agreement to a *raiyat* under this section may file it in the office of such Court or officer as the Local Government appoints in this behalf for service on the *raiyat*. The Court or officer shall forthwith cause it to be served on the *raiyat* in the prescribed manner, and when it has been so served, it shall for the purposes of this section be deemed to have been tendered.

(3) If a *raiyat* on whom an agreement has been served under sub-section (2) executes it, and within one month from the date of service files it in the office from which it issued, it shall take effect from the commencement of the agricultural year next following.

(4) When an agreement has been executed and filed by a *raiyat* under sub-section (3), the Court or officer in whose office it is so filed shall forthwith cause a notice of its being so executed and filed to be served on the landlord in the prescribed manner.

(5) If the *raiyat* does not execute the agreement and file it under sub-section (3), he shall be deemed for the purposes of this section to have refused to execute it

(6) If a *raiyat* refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Court shall determine what rent is fair and equitable for the holding

(7) If the *raiyat* agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment under the conditions mentioned in the last foregoing section, unless he has acquired a right of occupancy.

(8) If the *raiyat* does not agree to pay the rent so determined, the Court shall pass a decree for ejectment.

(9) In determining what rent is fair and equitable, the Court shall have regard to the rents generally paid by *raiya*t*s* for land of a similar description and with like advantages in the same village.

(10) A decree for ejectment passed under this section shall take effect from the end of the agricultural year in which it is passed.

47. Where a *raiyat* has been in occupation of land and a lease is executed with a view to a continuance of his occupation, he is not to be deemed to be admitted to occupation by that lease for the purposes of this Chapter, notwithstanding that the lease may purport to admit him to occupation.

Explanation of "admitted to occupation"

CHAPTER VII.

UNDER-RAIYATS.

48 The landlord of an under-*raiyat* holding at a money-rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same (namely) —

Limit of rent recoverable from under *raiyats*

(a) when the rent payable by the under-*raiyat* is payable under a registered lease or agreement—fifty *per cent*, and

(b) in any other case—twenty-five *per cent*.

Restriction on ejectment of under-*raiyats*.

49 An under-*raiyat* shall not be liable to be ejected by his landlord, except—

(a) on the expiration of the term of a written lease;

(b) when holding otherwise than under a written lease, at the end of the agricultural year next following the year in which a notice to quit is served upon him by his landlord.

CHAPTER VIIA.*

"Restrictions on alienation of land by aboriginals."

"49A. (1) This Chapter shall apply in the first instance only to the Sonthals of the districts of Birbhum, Bankura and Midnapore, who shall be deemed to be aboriginals for the purposes of this Chapter.

(2) The Local Government may, from time to time, by notification published in the *Calcutta Gazette*, declare that the provi-

* Chapter VIIA has been inserted by Ben Act II of 1918 and it is enforce in the new Presidency of Fort William in Bengal Vid: Ben Act II of 1918.

sions of this Chapter shall, in any district or local area, apply to such of the following aboriginal castes or tribes as may be specified in the notification, and that such castes or tribes shall be deemed to be aboriginals for the purposes of this Chapter, namely :—

Sonthals of other districts, Bhuiyas, Bhumijes Garos, Gonds, Hadis, Hajangs, Hos, Kharias, Kharwars, Kochs (Dacca Division), Koras, Maghs (Bakarganj District), Mal and Sauria Paharias, Meches, Mundas, Oraons and Turis.

(3) The publication of a notification under sub-section (2) shall be conclusive evidence that the provisions of this Chapter have been duly applied to such castes or tribes.

(4) The Local Government may, by a like notification, declare that this Chapter shall, in any district or local area, cease to apply to the Sonthals mentioned in sub-section (1) or to any caste or tribe to which it may have been applied under sub section (2).

"49B. No transfer by an aboriginal tenure-holder, raiyat or under-raiyat of his right in his tenure or holding, or in any portion thereof, by private sale, gift, will, mortgage, lease or any contract or agreement, shall be valid to any extent except as provided in this Chapter.

"49C. An aboriginal tenure-holder may grant a lease to another aboriginal, to hold the land as a tenure-holder, or to cultivate it as a raiyat, in accordance with the provisions of this Act.

"49D. Subject to the provisions of section 85, an aboriginal raiyat may sub-let his holding to another aboriginal to cultivate it as an under-raiyat.

"49E. (1) An aboriginal tenure-holder, raiyat or under-raiyat may enter with another aboriginal into a complete usufructuary mortgage in respect of any land under his own cultivation, for any period which does not and cannot, in any possible event, by any agreement, express or implied, exceed seven years, or the period of his own right, whichever is less.

Provided that every mortgage so entered into shall be registered under the Indian Registration Act, 1908.

(2) An aboriginal tenant's power to mortgage his land shall be restricted to only one form of mortgage, namely, a complete usufructuary mortgage.

Explanation.—A 'complete usufructuary mortgage' means a transfer by a tenant of the right of possession in any land for the purpose of securing the payment of money or the return of grain advanced or to be advanced by way of loan, upon the condi-

tion that the loan, with all interest thereon shall be deemed to be extinguished by the profits arising from the land during the period of the mortgage.

Application to Collector for transfer in certain cases

"49F. (1) If in any case—

(a) an aboriginal tenure-holder is unable to lease his land as provided in section 49C, or an aboriginal raiyat is unable to sub-let his holding as provided in section 49D, or an aboriginal tenure-holder, raiyat or under-raiyat is unable to mortgage his land to another aboriginal as provided in section 49E sub-section (1), or

(b) an aboriginal tenure-holder, raiyat or under-raiyat desires to transfer his land, or any portion thereof, by private sale, gift or will to any person.

he may apply to the Collector for permission, in case (a), to transfer the same to a person who is not an aboriginal, or in case (b), to transfer the same by private sale, gift or will to any person; and the Collector may pass such order on the application as he thinks fit.

(2) Every such transfer shall be made by registered deed, and before the deed is registered and the land transferred, the written consent of the Collector shall be obtained to the terms of the deed and to the transfer.

(3) Nothing in this section shall validate a transfer of any land or portion thereof which, by the terms upon which it is held, or by any law or local custom, would not be transferable except for the provisions of this section.

49G. No transfer by an aboriginal tenure-holder, raiyat or under-raiyat in contravention of the provisions of this Chapter shall be registered or in any way recognized as valid by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.

"49H. (1) If a transfer of a tenure or holding, or any portion thereof, is made by an aboriginal tenure-holder, raiyat or under-raiyat in contravention of the provisions of section 49B, or if the transferee has continued or is in possession in contravention of the provisions of section 49E, sub-section (1), or section 49F, as the case may be, the Collector may, on his own initiative or on application made in that behalf, by an order in writing, eject the transferee from such tenure, holding or portion:

Provided that—

(a) the transferee whom it is proposed to eject has not been

in continuous possession in contravention of this Act for twelve years, and

(*g*) he is given an opportunity of showing cause against the order of ejectment.

(2) When the Collector has passed any order under sub-section (1), he shall either—

(*a*) restore the transferred land to the aboriginal tenure-holder, raiyat or under-raiyat, or his heir or legal representative, or

(*b*) failing the transferor or his heir or legal representative, declare that the right of settlement is vested in the landlord subject to the provisions of section 49J, provided that if the right is not exercised within one year, the Collector may, within six months, settle the land on behalf of the landlord on such terms as he deems fit with an aboriginal; and, if the Collector is unable to make such settlement within the said period, an unrestricted right of settlement will vest in the landlord.

Resettlement of certain
tenancies

"49J. (1) Whenever—

(*a*) the right of settlement of any tenancy, or any portion thereof, is declared to be vested in the landlord under clause (*b*) of sub-section (2) of section 49H, or

(*b*) an aboriginal tenant surrenders his tenancy, or a portion thereof, or abandons his residence and ceases to hold his tenancy

the landlord may, subject to the provisions of sections 86 and 87,—

(*i*) settle the tenancy or a portion thereof, with an aboriginal or

(*ii*) with the approval of the Collector in writing settle the same with a person who is not an aboriginal or retain it in his own possession : provided that such approval shall not be withheld if the Collector is satisfied that the surrender or abandonment referred to in this sub-section is not made with the object of evading the provisions of section 49B, 49E or 49F.

(2) If any landlord resettles or otherwise deals with any tenancy as aforesaid in contravention of the provisions of sub section (1), the Collector may take action, so far as may be, in accordance with the provisions of section 49H.

49K. Notwithstanding any thing in this Act, no decree or order shall be passed by any Court for the sale of the right of an aboriginal tenure-holder, raiyat or under-raiyat in his tenure

Restrictions on sale of
tenant rights under
order of Court.

or holding, or in any portion thereof, nor shall any such right be sold in execution of any decree or order,

Provided as follows:—

(a) any tenure or holding belonging to an aboriginal may be sold in execution of a decree of a competent Court, to recover an arrear of rent which has accrued in respect of the tenure or holding,

(b) nothing in this section shall affect any right to execute a decree for the sale of any such tenure or holding, or the terms or conditions of any *bond fide* contract relating thereto, if such decree was passed or such contract registered,—

(i) in the case of the Sonthals of the districts of the Birbhum Bankura and Midnapore, before the 1st November, 1916, and

(ii) in the case of other castes and tribes to which this Chapter has been applied, at least one year before the date of the publication of the notification under section 49A, sub section (2), in respect to such castes or tribes;

(c) nothing in this section shall affect any right for the sale of any such tenure or holding for the recovery of any dues which are recoverable as public demands.

“49L. If the sale of a tenure or holding, or any portion thereof, is ordered in execution of a decree against an aboriginal tenure-holder, raiyat or under raiyat in respect of such tenancy or portion thereof, the Court executing the decree shall allow the tenant reasonable time in which to pay the amount due.

“49M. (1) An appeal, if presented within thirty days from the date of the order appealed against, shall lie to the Collector of the district from any order made under sections 49F, 49H or 49J by any officer in the district exercising the powers of a Collector, and the order of the Collector on appeal shall be final.

Provided that every order passed by the Collector on appeal shall be subject to revision and modification by the Commissioner.

(2) Notwithstanding anything in sub-section (1), an appeal from any order made under any of the sections mentioned in that sub-section by an officer acting under Chapter X of this Act shall be to such officer as the Local Government may appoint in this behalf, and the orders of such officer on appeal shall be final:

Provided that, in every such case, every order passed by the said officer on appeal shall be subject to revision and modification by such officer as the Local Government may appoint to deal therewith.

(3) An appeal, as provided in sub section (1), shall lie to the Commissioner from any original order made by the Collector of the district under any of the sections mentioned in that sub-section

“49N. Notwithstanding anything in this Act, no suit shall lie in any Civil Court to vary or set aside any order passed by the Collector in any proceeding under this Chapter except on the ground of fraud or want of jurisdiction

Bar to suits
 “49 O. Nothing in this Chapter shall affect the validity of any transfer (not otherwise invalid) by a tenure holder, raiyat or under-raiyat of his tenure or holding, or any portion thereof, made bona fide,—
 Saving of certain transfers

(a) in the case of the Sonthals of the districts of Birbhum, Bankura and Midnapore before the 1st November, 1916, and

(b) in the case of other castes and tribes to which this Chapter has been applied, at least one year before the date of the publication of the notification under section 49A, sub-section (2), in respect to such castes or tribes”

CHAPTER VIII.

GENERAL PROVISIONS AS TO RENT.

*Rules and presumptions as to amount of rent.*¹

50. (1) Where a tenure-holder or *raiyat* and his predecessors in interest have held at rent or rate of rent which has not been changed from the time of the Permanent Settlement, the rent or rate of rent shall not be liable to be increased except on the ground of an alteration in the area of the tenure or holding.

(2) If it is proved in any suit or other proceeding under this Act that either a tenure-holder or *raiyat* and his predecessors in interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit or proceeding, it shall be presumed, until the contrary is shown, that they have held at that rent or rate of rent from the time of the permanent Settlement.

Provided that if it is required by or under any enactment that in any local area tenancies, or any classes of tenancies, at fixed rents or rates of rent shall be registered as such on, or before, a date specified by or under the enactment, the fore-going preump-

tion shall not after that date apply to any tenancy or, as the case may be, to any tenancy of that class in that local area unless the tenancy has been so registered.

(3) The operation of this section, so far as it relates to land held by a *raiyat*, shall not be affected by the fact of the land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

(4) Nothing in this section shall apply to a tenure held for a term of years or determinable at the will of the landlord.

51. If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any agricultural year, he shall be presumed until the contrary is shown, to hold at the same rent and under the same conditions as in the last preceding agricultural year.

Alteration of rent on alteration of area.

Alteration of rent in respect of alteration in area

52. (1) Every tenant shall—

(a) be liable to pay additional rent for all land proved by measurement to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the tenure or holding of land which having previously belonged to the tenure or holding was lost by diluvion or otherwise without any reduction of the rent being made; and

(b) be entitled to a reduction of rent in respect of any deficiency proved by measurement to exist in the area of his tenure or holding as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenure or holding by alluvion or otherwise and that an addition has not been made to the rent in respect of the addition to the area

(2) In determining the area for which rent has been previously paid, the Court shall, if so required by any party to the suit, have regard to—

(a) the origin and conditions of the tenancy, for instance, whether the rent was a consolidated rent for the entire tenure or holding;

(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord;

- (c) the length of time during which the tenancy has lasted without dispute as to rent or area, and
- (d) the length of the measure used or in local use at the time of the origin of the tenancy as compared with that used or in local use at the time of the institution of the suit.

(3) In determining the amount to be added to the rent, the Court shall have regard to the rates payable by tenants of the same class for lands of a similar description and with similar advantages in the vicinity, and, in the case of a tenure-holder, to the profits to which he is entitled in respect of the rent of his tenure, and shall not in any case fix any rent which, under the circumstances of the case, is unfair or inequitable.

(4) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the tenure or holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the tenure or holding.

* (5) [When in a suit under this section the landlord or tenant is unable to indicate any particular land as held in excess, the rent to be added on account of the excess area may be calculated at the average rate of rent paid on all the lands of the holding exclusive of such excess area.]

† (6) [When in a suit under this section the landlord or tenant proves that, at the time the measurement on which the claim is based was made, there existed in respect of the estate or permanent tenure or part thereof in which the tenure or holding is situate, a practice of settlement being made after measurement of the land assessed with rent, it may be presumed that the area of the tenure or holding specified in any *patta* or *kabuliyat*, or (where there is an entry of area in a counterfoil receipt corresponding to the entry in the rent roll) in any rent roll relating to it has been entered in such *patta*, *kabuliyat* or rent-roll after measurement]

Payment of rent

Instalments of rent. **53.** Subject to agreement or established usage, a money rent payable by a tenant shall be paid in four equal instalments falling due on the last day of each quarter of the agricultural year.

* Sub-section (5) was added to s 52 by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act III of 1898), s 6

† Sub-section (6) was added to section 52, for Western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 13, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 13.

Time and place for payment of rent. 54. (1) Every tenant shall pay each instalment of rent before sunset of the day on which it falls due.

(2) The payment shall, except in cases where a tenant is allowed under this Act to deposit is rent, be made at the landlord's village-office, or at such other convenient place as may be appointed in that behalf by the landlord :

Provided that the Local Government may, from time to time, make rules, either generally or for any specified local area, authorizing a tenant to pay his rent by postal money-order.

(3) Any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed an arrear

Appropriation of payment. 55. (1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited to the account of such year and the instalment as the landlord thinks fit.

Receipts and accounts.

Tenant making payment his landlord entitled to a receipt. 56 (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him, signed by the landlord

(2) The landlord shall prepare and retain a counterfoil of the receipt.

(3) The receipt and counterfoil shall specify such of the several particulars shown in the form of receipt given in Schedule II to this Act as can be specified by the landlord at the time of payment :

Provided that the "Local Government" (Board of Revenue)* may, from time to time, prescribe or sanction a modified form either generally or for any particular local area or class of cases.

(4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

* Read the words Board of Revenue for the words "Local Government" in the new Province of Bihar and Orissa—Vide B. and O. Act III of 1916.

Tenant entitled to full discharge or statement of account at close of year

57. (1) Where a landlord admits that all rent payable by a tenant to the end of the agricultural year has been paid, the tenant shall be entitled to receive from the landlord, free of charge, within three months after the end of the year, a receipt in full discharge of all rent falling due to the end of the year, signed by the landlord.

(2) Where the landlord does not so admit, the tenant shall be entitled, on paying a fee of four annas, to receive within three months after the end of the year, a statement of account specifying the several particulars shown in the form of account given in Schedule II to this Act, or in such other form as may from time to time be prescribed by the "Local Government" [Board of Revenue]*either generally or for any particular local area or class of cases.

(3) The landlord shall prepare and retain a copy of the statement containing similar particulars

58. (1) If a landlord without reasonable cause refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section 56 for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit to recover from him such penalty, not exceeding double the amount of value of that rent as the Court thinks fit.

(2) If a landlord without reasonable cause refuses or neglects to deliver to a tenant demanding the same either the receipt in full discharge or, if the tenant is not entitled to such a receipt, the statement of account for any year prescribed in section 57, the tenant may, within the next ensuing agricultural year, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during the year for which the receipt or account should have been delivered.

† (3) If a landlord or his agent, without reasonable cause, fails to deliver to the tenant a receipt, or statement,

* Read the words "Board of Revenue" for the words "Local Government" in the new Province of Bihar and Orissa—Vide B and O Act III of 1916

† The sub-sections (3) to (8) here printed were substituted for the original sub-section (3) for Western Bengal, by the Bengal Tenancy (Amendment) Act 1907 (Ben Act I of 1907) s. 14 and, for Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 14. The original sub-section ran thus —

"(3) If a landlord without reasonable cause fails to prepare and retain a counterfoil or copy of a receipt or statement as required by either of the said sections he shall be punished with fine which may extend to fifty rupees".

in case (d), the names of the person to whom the rent was last paid and of the person or persons now claiming it ;

shall be signed and verified, in the manner prescribed in section 52 of the Code of Civil Procedure *, by the tenant, or, where he is not personally cognizant of the facts of the case, by some person so cognizant ; and shall be accompanied by a fee of such amount as the Local Government, from time to time by rule directs.

62. (1) If it appears to the Court to which an application Receipt granted by is made under the last foregoing section Court for rent deposited that the applicant is entitled under that to be a valid acquittance section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court.

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in cases (a) and (b) of the last foregoing section, by the person specified in the application as the person to whose credit the deposit was to be entered ,

in case (c) of that section, by the co-sharers to whom the rent is due ; and

in case (d) of that section, by the person entitled to the rent.

63. (1) The Court receiving the deposit shall forthwith cause Notification of receipt to be affixed in a conspicuous place at the Court-house a notification of the receipt of deposit thereof, containing a statement of all material particulars.

(2) If the amount of the deposit is not paid away under the next following section, within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith—

in cases (a) and (b) of section 61, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered ;

in case (c) of that section, cause a notice of the receipt of the deposit to be posted at the landlord's village office or in some conspicuous place in the village in which the holding is situate , and

* Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to rule 15 in Order VI in Sch. I to that Code—see s 158 thereof.

in case (d) of that section, cause a like notice to be served, free of charge on every person who it has reason to believe claims or is entitled to the deposit,

64 (1) The Court may pay the amount of the deposit to any person appearing to it to be entitled to the deposit or refund of same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(2) The payment may, if the Local Government so directs, be made by postal money order.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Court with which the rent was deposited.

(4) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Court receiving a deposit under the foregoing sections; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Arrears of rent.

65. Where a tenant is a permanent tenure-holder, a *raiyat* holding at fixed rates or an occupancy-*raiyat*, he shall not be liable to ejectment for arrears of rent, but his tenure or holding shall be liable to sale in execution of a decree for the rent thereof, and the rent shall be a first charge thereon.

66. (1) When an arrear of rent remains due from a tenant not being a permanent tenure-holder, a *raiyat* holding at fixed rates or an occupancy-*raiyat*, at the end of the Bengali year where that year prevails, or at the end of the month of *Jeth* where the *Fasli* or *Amli* year prevails the landlord may, whether he has obtained a decree for the recovery of the arrear or not and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant.

(2) In a suit for ejectment for an arrear of rent a decree passed in favour of the plaintiff shall specify the amount of the arrear and of the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or when

the Court is closed on the fifteenth day, on the day upon which the Court re opens.

(3) The Court may for special reasons extend the period of fifteen days mentioned in this section.

67. An arrear of rent shall bear simple interest at the rate of twelve*[and-a-half] *per centum per annum* from the expiration of that quarter of the agricultural year in which the instalment falls due †[to the date of payment or of the institution of the suit, whichever date is earlier.]

68. (1) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty five *per centum* on the amount of rent decreed, as it thinks fit :

Provided that interest shall not be decreed when damages are awarded under this section.

(2) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twenty-five *per centum* on the whole amount claimed by the plaintiff as it thinks fit.

69. (1) Where rent is taken by appraise-
ment or division of the produce,—
Produce rents. Order
for appraising or divid-
ing produce

(a) if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the appraisement or division, or

(b) if there is a dispute about the quantity, value, or division of the produce,

* The words "within brackets" in section 67 were inserted, for western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 15 (a), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act I of 1908), s. 15 (a)

† The words "to the date of payment or of the institution of the suit, whichever date is earlier" in section 67, were substituted for the words "to the institution of the suit," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 15 (b), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B & A. Act I of 1908), s. 15 (b).

the Collector may on the application of either party and on his depositing such sum on account of expenses as the Collector may require, make an order appointing such officer as he thinks fit to appraise or divide the produce.

(2) The Collector may without such an application, make the like order in any case where in the opinion of the District or sub divisional Magistrate the making of the order would be likely to prevent a breach of the peace.

*(3) Where a Collector makes an order under this section, he may, by order prohibit the removal of the produce until the appraisement or division has been effected; [but an order made by the Collector under this sub-section shall not prevent the execution of any order passed by the Court for the distraint of the tenant's crops]

†(3) Where a Collector makes an order under this section he may, by order, prohibit the removal of the produce until the appraisement or division has been effected; §[but an order made by the Collector under this sub-section shall not prevent the execution of any order passed by a Civil Court for the distraint of the tenant's crops].

|| [(4) Every officer appointed by the Collector under sub-section (1) to appraise or divide the produce shall for the purposes of the Indian Penal Code be deemed to be a public servant.]

70. (1) When a Collector appoints an officer under the last foregoing section the Collector may, in his discretion direct the officer to associate with himself any other persons as assessors and may give him instructions regarding the number, qualifications and mode of selection of those assessors (if any), and the procedure to be followed in making the appraisement or division, and the officer shall conform to the instructions so given

(2) The officer shall before making an appraisement or division give notice to the landlord and tenant of the time and place at which the appraisement or division will be made, but if either the landlord or the tenant fails to attend either personally or by agent he may proceed *ex parte*.

* This sub section (3) applies to Western Bengal

† This sub section (3) applies to Eastern Bengal

‡ These words in square brackets were added to this s. 69 (3), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 16 (1).

§ These words in square brackets were added to this s. 69 (3), for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 16 (1).

|| Sub-section (4) was added to section 69, for Western Bengal, by the Bengal Tenancy Amendment Act, 1907 Ben. Act I of 1907, s. 16 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy Amendment Act, 1908 (E. B. & A. Act I of 1908), s. 16 (2).

(3) When the officer has made the appraisement or division he shall submit a report of his proceedings to the Collector.

(4) The Collector shall consider the report, and, after giving the parties an opportunity of being heard and making such inquiry (if any) as he may think necessary, shall pass such order thereon as he thinks just

(5) The Collector may, if he thinks fit refer any question in dispute between the parties for the decision of a Civil Court but subject as aforesaid his order shall be final and shall on application to a Civil Court by the landlord or the tenant, be enforceable as a decree

(6) Where the officer makes an appraisement, the appraisement papers shall be filed in the Collector's office.

71. (1) Where rent is taken by appraisement of the produce, the tenant shall be entitled to the exclusive possession of the produce,
Rights and liabilities as to possession of crop

(2) Where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the whole produce until it is divided but shall not be entitled to remove any portion of the produce from the threshing-floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landlord.

(4) If the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof at the proper time the produce shall be deemed to have been as full as the fullest crop of the same description appraised in the neighbourhood on similar land for that harvest.

Liability for rent on change of landlord or after transfer of tenure or holding.

Tenant not liable to transferee of landlord's interest for rent paid to former landlord without notice of the transfer.

72. (1) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has before the payment given notice of the transfer to the tenant.

(2) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

73 When an occupancy-*raiyat* transfers his holding without the consent of the landlord, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, unless and until notice of the transfer is given to the landlord in the prescribed manner.

**Illegal ceases, etc.*

74.† (1) All impositions upon tenants under the denomination of *adwāb mathat* or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void,

(2)† All impositions upon tenants of road cess or public work cess, or both,—

(a) in excess of the net amount prescribed by clause (2) of section 41 of the Cess Act, 1880, or

(b) on any scale in excess of that prescribed by clause (3) of that section levied in addition to the actual rent shall be illegal, and all stipulations and reservations for payment of any such excess contained in any contract made between a landlord and a tenant on or after the 13th day of October, 1880, shall be void :—

Provided that nothing in this sub-section shall affect the terms of a written contract registered before the commencement of the Bengal Tenancy (Amendment) Act, 1919 :

Provided also that, subject to the provisions of section 72 of the Indian Contract Act, 1872, no suit shall be for the recovery of anything paid before the commencement of the Bengal Tenancy (Amendment) Act, 1919, on account of the compositions referred to in subsection (2)

(3) Nothing in this section shall be deemed to affect the terms of a permanent mukurari lease granted by a proprietor or holder of a permanent tenure in a permanently settled area.]

75 Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent‡ [or road cess or

* The word "rent" in ss 74 and 75 includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5),

† In the new Presidency of Fort William in Bengal section 74 has been renumbered as subsection (1) and after it subsection (2) has been added Vide Ben Act III of 1919

‡ The words "or interest," in section 75, were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 17, and for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A Act I of 1908), s. 17.

public works cess]* [or interest] lawfully payable, may, [subject to the second proviso to sub-section (2) of section 74]* within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding two hundred rupees ; or, when double the amount or value of what is so exacted exceeds two hundred rupees, not exceeding double that amount or value.

CHAPTER IX.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

Improvements

76. (1) For the purposes of this Act, the term "improvement," Definition of "improvement" shall mean any work which adds to the value of the holding which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it

(2) Until the contrary is shown, the following shall be presumed to be improvements within the meaning of this section. —

- (a) the construction of wells, tanks, water-channels and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture ,
- (b) the preparation of land for irrigation ,
- (c) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or waste land which is culturable ,
- (d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes ;
- (e) the renewal or re-construction of any of the foregoing works, or alterations therein or additions thereto; and
- (f) the erection of a suitable dwelling-house for the *raiyat* and his family, together with all necessary out offices.

* The words within brackets have been inserted in the new Presidency of Fort William in Bengal by Ben. Act III of 1919

(3) But no work executed by the *rayat* of a holding shall be deemed to be an improvement for the purposes of this Act if it substantially diminishes the value of his landlord's property

77. (1) Where a *rayat* holds at fixed rates or has an occupancy right in his holding, neither the *rayat* nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the holding, except on the ground that he is willing to make it himself.

(2) If both the *rayat* and his landlord wish to make the same improvement, the *rayat* shall have the prior right to make it, unless it affects another holding or other holdings under the same landlord.

Collector to decide question as to right to make improvement etc **78.** If a question arises between the *rayat* and his landlord—

(a) as to the right to make an improvement or

(b) as to whether a particular work is an improvement,

the Collector may, on the application of either party, decide the question, and his decision shall be final

79. (1) A non-occupancy *rayat* shall be entitled to construct, maintain and repair a well for the improvements in case of irrigation of his holding, with all works non-occupancy-holding incidental thereto, and to erect a suitable dwelling house for himself and his family, with all necessary out-offices but shall not, except as aforesaid and as next herein-after provided, be entitled to make any other improvement in respect of his holding without his landlord's permission.

(2) A non-occupancy-*rayat* who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time, and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

80 (1) A landlord may, by application to such Revenue-officer as the "Local Government" (Board of Revenue) * may appoint, register any improvement which he has lawfully made or which has been lawfully made at his expense or which he has assisted a tenant in making.

(2) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local

* Read the words "Board of Revenue" in the new Province of Bihar and Orissa for the words "local Government"—vide B and O Act III of 1916.

inquiry or otherwise, as the Local Government, from time to time by rule directs.

(3) The officer receiving the application may reject it if it has not been made within twelve months—

(a) in the case of improvements made before the commencement of this Act—from the commencement of this Act ;

(b) in the case of improvements made after the commencement of this Act—from the date of the completion of the work

81 (1) If any landlord or tenant of a holding desires that evidence relating to any improvement made in respect thereof be recorded, he may apply to a Revenue-officer, who shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence, unless he considers that there are no reasonable grounds for making the application, or it is made to appear that the subject-matter thereof is under inquiry in a Civil Court.

(2) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in every subsequent proceeding between the landlord and tenant or any persons claiming under them.

82. (1) Every *raiyat* who is ejected from his holding shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been paid.

(2) Whenever a Court makes a decree or order for the ejection of a *raiyat*, it shall determine the amount of compensation (if any) due under this section to the *raiyat* for improvements, and shall make the decree or order of ejection conditional on the payment of that amount to the *raiyat*.

(3) No compensation under this section for an improvement shall be claimable where the *raiyat* has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

(4) Improvements made by a *raiyat* between the second day of March, 1883, and the commencement of this Act shall be deemed to have been made in accordance with this Act.

(5) The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the com-

penation to be awarded under this section for an improvement, such number of assessors as the Local Government think fit and determining the qualifications of those assessors and the mode of selecting them.

Principle on which compensation is to be estimated.

83. (1) In estimating the compensation to be awarded under the last foregoing section for an improvement, regard shall be had—

- (a) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement ;
- (b) to the condition of the improvement, and the probable duration of its effects ;
- (c) to the labour and capital required for making of such an improvement ;
- (d) to any reduction or remission of rent or any other advantage given by the landlord to the *raiyat* in consideration of the improvement ; and
- (e) in the case of a reclamation or of the conversion of unirrigated into irrigated land, to the length of time during which the *raiyat* has had the benefit of the improvement at an unenhanced rent.

(2) When the amount of the compensation has been assessed, the Court may if the landlord and *raiyat* agree, direct that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Acquisition of land for building and other purposes.

84. A Civil Court may, on the application of the landlord of a holding, and on being satisfied that he is desirous of acquiring the holding or part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the estate in which it is comprised, including the use of the ground as building ground, or for any religious, educational or charitable purpose,

and on being satisfied on the certificate of the Collector that the purpose is reasonable and sufficient.

authorize the acquisition thereof by the landlord upon such conditions as the Court may think fit, and require the tenant to sell his interest in the whole or such part of the holding to the landlord upon such terms as may be approved by the Court, including full compensation to the tenant.

Sub letting.

25 (1) If a *raiyat* sub-lets otherwise than by a registered instrument, the sublease shall not be valid against his landlord unless made with the landlord's consent.

(2) A sub-lease by a *raiyat* shall not be admitted to registration if it purports to create a term exceeding nine years.

(3) Where a *raiyat* has, without the consent of his landlord, granted a sublease by an instrument registered before the commencement of this Act, the sub-lease shall not be valid for more than nine years from the commencement of this Act.

Surrender and abandonment.

86. (1) A *raiyat* not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

(2) But, notwithstanding the surrender, the *raiyat* shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following the date of the surrender, unless he gives to his landlord, at least three months before he surrenders, notice of his intention to surrender.

(3) When a *raiyat* has surrendered his holding, the Court shall, in the following cases for the purposes of sub-section (2), presume, until the contrary is shown, that such notice was so given namely —

(a) if the *raiyat* takes a new holding in the same village from the same landlord during the agricultural year next following the surrender,

(b) if the *raiyat* ceases, at least three months before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate.

(4) The *raiyat* may, if he thinks fit, cause the notice to be served through the Civil Court within the jurisdiction of which the holding or any portion of it is situate.

(5) When a *raiyat* has surrendered his holding, the landlord may enter on the holding and either let it to another tenant or take it into cultivation himself.

(6) When a holding is subject to an incumbrance secured by a registered instrument, the surrender of the holding shall not be valid unless it is made with the consent of the landlord and the incumbrancer.

(7) Save as Provided in the last forgoing sub-section, nothing in this section shall affect any arrangement by which a *raiyat* and his landlord may arrange for a surrender of the whole or a part of the holding.

87. (1) If a *raiyat* voluntarily abandons his residence without notice to his landlord and without arranging for payment of his rent as it falls due, and ceases to cultivate his holding either by himself or by some other person, the landlord may, at any time after the expiration of the agricultural year in which the *raiyat* so abandons and ceases to cultivate, enter on the holding and let it to another tenant or take it into cultivation himself.

(2) Before a landlord enters under this section, he shall file a notice in the prescribed form in the Collector's office, stating that he has treated the holding as abandoned and is about to enter on it accordingly, and the Collector shall cause a notice to be published in such manner as the Local Government, by rule, directs.

(3) When a landlord enters under this section, the *raiyat* shall be entitled to institute a suit for recovery of possession of the land at any time not later than the expiration of two years, or, in the case of a non-occupancy *raiyat*, six months, from the date of the publication of the notice; and thereupon the Court may, on being satisfied that the *raiyat* did not voluntarily abandon his holding, order recovery of possession on such terms, if any, with respect to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

(4) Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering under this section, on the holding, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the *raiyat* who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that *raiyat*. If the sub-lessee refuses or neglects within a reasonable time to accept the offer, the landlord may avoid the sub-lease and may enter on the holding and let it to another tenant or cultivate it himself as provided in sub-sections (1) and (2).

Sub-division of tenancy.

***88.** A division of a tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made *†*(with his *express* consent in writing *or with that of his agent duly authorised in that behalf :*)

Division of ten-
ancy not binding
on landlord with-
out his consent.

or holding, or
distribution of
the rent pay-
able in respect

thereof, shall not be binding on
the landlord unless it is made
†(with his *express* consent in
writing *or with that of his agent*
duly authorised in that behalf :)

† 88 A division of a tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made with his consent in writing.

Division of ten-
ancy not binding
on landlord with-
out his consent

or holding, or
distribution of
the rent pay-
able in respect

thereof, shall not be binding on
the landlord unless it is made
with his consent in writing.

§ Provided that, if there is proved to have been made in any landlords's rent-roll any entry showing that any tenure or holding has been divided, or that the rent payable in respect thereof has been distributed, such landlord may be presumed to have given his express consent in writing to such division or distribution.

Ejectment.

No ejectment except
in execution of decree

89. No tenant shall be ejected from his tenure or holding except in execution of a decree.

Measurements.

90. (1) Subject to the provisions of this section and any contract, a landlord may, by himself or by any person authorized by him in this behalf, enter on and measure all land comprised in his estate or tenure, other than land exempt from the payment of revenue

Landlord's right to
measure land.

contract, a landlord may, by himself or by
any person authorized by him in this behalf,
enter on and measure all land comprised in
his estate or tenure, other than land exempt from the payment of
revenue

* This section 88 applies to Western Bengal.

† This section 88 applies to Eastern Bengal.

The differences in section 88, as in force in Western Bengal and Eastern Bengal respectively, lie in the words printed in italics.

Section 88 is not affected by s. 1 of the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben. Act I of 1903)—see s. 3 of that Act.

‡ These words in square brackets in this section 88 were substituted for the words "with his consent in writing," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 18 (1)

§ This proviso was added to this section 88, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 18 (2).

(2) A landlord shall not, without the consent of the tenant, or the written permission of the Collector, be entitled to measure land more than once in ten years, except in the following cases (namely):—

- (a) where the area of the tenure or holding is liable, by reason of alluvion or diluvion, to vary from year to year, and the rent payable depends on the area ;
- (b) where the area under cultivation is liable to vary from year to year and the rent payable depends on the area under cultivation ;
- (c) where the landlord is a purchaser otherwise than by voluntary transfer and not more than two years have elapsed since the date of his entry under the purchase.

(3) The ten years shall be computed from the date of the last measurement, whether made before or after the commencement of this Act.

91. (1) Where a landlord desires to measure any land which he is entitled to measure under the last foregoing section, the Civil Court may, on the application of the landlord, make an order requiring the tenant to attend and point out the boundaries of the land.

(2) If the tenant refuses or neglects to comply with the order, a map or other record of the boundaries and measurements of the land prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

92. (1) Every measurement of land made by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made by the acre, unless the Court or Revenue officer directs that it be made by any other specified standard.

(2) If the rights of the parties are regulated by any local measure other than the acre, the acre shall be converted into the local measure for the purposes of the suit or proceeding.

(3) The Local Government may, after local inquiry, make rules declaring for any local area the standard or standards of measurement locally in use in that area ; and every declaration so made shall be presumed to be correct until the contrary is shown.

Managers.

Power to call upon co-owners to show cause why they should not appoint a common manager.

93 When any dispute exists between co-owners of an estate or tenure as to the management thereof, and in consequence there has ensued, or is likely to ensue,

- (a) inconvenience to the public, or
- (b) injury to private rights,

the District Judge may, on the application in case (a) of the Collector, and in case (b) of any one having an interest in the estate or tenure, direct a notice to be served on all the co-owners, calling on them to show cause why they should not appoint a common manager

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he claims, and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under the Land Registration Act, 1876.

94. If the co-owners fail to show cause as aforesaid within one month after service of a notice under the last foregoing section, the District Judge make an order directing them to appoint a common manager, and a copy of the order shall be served on any co-owner who did not appear before it was made.

95. If the co-owners do not, within such period, not being less than one month after the making of an order under the last foregoing section, as the District Judge may fix in this behalf, or where the order has been served as directed by that section, within a like period after such service, appoint a common manager and report the appointment for the information of the District Judge, the District Judge may, unless it is shown to his satisfaction that there is a prospect of a satisfactory arrangement being made within a reasonable time,—

- (a) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards consents to undertake the management thereof; or

- (b) in any case appoint a manager.

96. The Local Government may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under clause (b) of the last foregoing section; and when any person has been so nominated, no other person shall be appointed manager under that clause by

Power to nominate person to act in all cases under clause (b) of last section.

the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

97. In any case in which the Court of Wards undertakes under section 95 the management of an estate or tenure, so much of the provisions of the Court of Wards' Act, 1879, as relates to the management of immovable property shall apply to the management.

The Court of Wards Act, 1879, applicable to management by Court of Wards.

98. (1) A manager appointed under section 95 may, if the District Judge thinks fit, be remunerated by a fixed salary or percentage of the money collected by him as manager, or partly in one way and partly in the other, as the District Judge, from time to time directs.

Provisions applicable to manager.

(2) He shall give such security for the proper discharge of his duties as the District Judge directs.

(3) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co-owners jointly might but for his appointment have exercised, and the co-owners shall not exercise any such power.

(4) He shall deal with and distribute the profits in accordance with the orders of the District Judge.

(5) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts.

(6) He shall pass his accounts at such period and in such form as the District Judge may direct.

(7) He may make any application which the proprietors could make under section 103.

(8) He shall be removable by the order of the District Judge and not otherwise.

99. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 95, the District Judge may at any time direct that the management of it be restored to the co-owners, if he is satisfied that the management will be conducted by them without inconvenience to the public or injury to private rights.

Power to restore management to co-owners.

100. The High Court may, from time to time, make rules defining the powers and duties of managers under the foregoing sections.

Power to make rules.

* CHAPTER X

RECORD OF RIGHTS AND SETTLEMENT OF RENTS

Part I.—Record of rights.

101 (1) The Local Government may, in any case† if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a survey be made and a record of rights be prepared by a Revenue-officer, in respect of the lands in any local area, estate or tenure or part thereof

(2) In particular and without prejudice to the generality of the foregoing power, the Local Government may make such an order on the following cases"‡

§(a) where—

- (i) the landlord or tenants, or
- (ii) a proportion of not less than one-half of the total number of landlords, or
- (iii) a landlord, or a proportion of the landlord whose interest, or the aggregate of whose interests, respectively, in the lands of the Local area, estate or tenure or part thereof is not less than one-half of the total shares of all the landlords therein, or
- (iv) a proportion of not less than one-fourth of the total number of tenants,

* This Chapter was substituted for the original Chapter X by the Bengal Tenancy (Amendment) Act, 1896 (Ben. Act III of 1896), s. 7. As regards proceedings under ss. 104, 105 and 106 of the Bengal Tenancy Act 1885 (VIII of 1885), as originally passed, see the Bengal Tenancy (Amendment) Act 1896 (Ben. Act III of 1896), ss. 5 & 9.

† certain words after this repealed by Act 38 of 1920 have been omitted

‡ The words within quotations have been substituted by Act 38 of 1920

§ This clause (a) was substituted for the original clause (a), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 11 (1), and for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 18 (1). The original clause ran thus—

"where the landlord or tenants, or a large proportion of the landlord or of the tenants, apply for such an order, and deposit, or give security for, such amount for the payment of expenses as the Local Government directs."

applies, or apply for such an order, depositing, or giving security for, such amount for the payment of expenses as the Local Government directs ;]

- (b) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally ;
- (c) where the local area, estate or tenure or the part thereof belongs to, or is managed by, the Government or the Court of Wards* [or a manager appointed by the District Judge under section 95 ,]
- (d) where a settlement of land revenue is being or is about to be made in respect of the local area, estate or tenure or of the part thereof.

Explanation 1.—The term “settlement of land revenue,” as used in clause (d), includes a settlement of rents in an estate or tenure which belongs to the Government.

Explanation 2.—A superior landlord may apply for an order under this section, notwithstanding that his estate or part thereof is temporarily leased to a tenure-holder

(3) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

(4) The survey shall be made and the record-of-rights prepared in accordance with rules made in this behalf by the Local Government

102. Where an order is made under section 101, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following, namely :—

(a) the name of each tenant or occupant ;

(b) the class to which each tenant belongs, that is to say, whether he is a tenure-holder, *raiyat* holding at fixed rates, settled *raiyat*, occupancy-*raiyat*, non-occupancy *raiyat* or under-*raiyat*, and, if he is a tenure-holder whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure ,

* The words, “or a manager appointed by the District Judge under section 95,” in clause (c), were added, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 19 (2), and for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. A. & A. Act I of 1908), s. 18 (2).

(c) the situation and quantity and one or more of the boundaries of the land held by each tenant or occupier :

(d) the name of each tenant's landlord ;

*[(dd) the name of each proprietor in the local area or estate ,]

(e) the rent payable at the time the record of rights is being prepared ;

(f) the mode in which that rent has been fixed—whether by contract, by order of a Court, or otherwise ;

(g) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases ;

†[(gg) the rights and obligations of each tenant and landlord in respect of—

(i) the use by tenants of water for agricultural purposes, whether obtained from a river, *put*, tank or well, or any other source of supply, and

(ii) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land ,]

(h) the special conditions and incidents, if any, of the tenancy ;

‡[(i) any right of way or other easement attaching to the land for which a record-of-rights is being prepared ,]

* Clause (dd) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 20 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 19 (1)

† Clause (gg) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 20 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 19 (2), and is to be deemed to have been so inserted from the commencement of the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act III of 1898).

‡ Clause (i) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 20 (3), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 19 (3).

- * (j) if the land is claimed to be held rent-free—whether or not rent is actually paid, and, if not paid, whether or not the occupant is entitled to hold the land without payment of rent, and if so entitled, under what authority.

+ 102A The Local Government may, for the purpose of settling or averting disputes existing or likely to arise between landlords, tenants, proprietors, or persons belonging to any of these classes, regarding the use or passage of water,

Power to order survey and preparation of record-of-rights as to water.

make an order directing that a survey be made, and a record-of-rights be prepared, by a Revenue-officer, in order to ascertain and record the rights and obligations of each tenant and landlord in any local area, estate or tenure or part thereof, in respect of—

- (a) the use by tenants of water for agricultural purposes, whether obtained from a river, *dhul*, tank or well, or any other source of supply; and
- (b) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land.

103. (1) On the application of one or more of the proprietors or tenure-holders, or of a large proportion of the *raiyats*, of an estate or tenure, and on the applicant or applicants depositing or giving security for the required amount for expenses, a Revenue-officer may, subject to and in accordance with rules made in this behalf by the Local Government, ascertain and record all or any of the particulars specified in section 102 with respect to the estate or tenure or any part thereof.

Power for Revenue-officer to record particulars on application of proprietor, tenure holder or large proportion of *raiyats*.

103A. (1) When a draft record-of-rights has been prepared, the Revenue-officer shall publish the draft in the prescribed manner and for the prescribed period, and shall receive and consider any objections which may be made to any entry therein, or to any omission therefrom, during the period of publication.

Preliminary publication, amendment and final publication of record-of-rights.

* This clause was formerly lettered (i), and was re-lettered (j), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 20 (3), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908) s. 19 (3).

+ Section 102A was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 21, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 20.

(2) When such objections have been considered and disposed of according to such rules as the Local Government may prescribe, and (if a settlement of land-revenue is being or is about to be made) the Settlement Rent roll has been incorporated with the record under section 104F, sub-section (3), the Revenue officer shall finally frame the record, and shall cause it to be finally published in the prescribed manner; and the publication shall be conclusive evidence that the record has been duly made under this Chapter.

(3) Separate draft or final records may be published under sub-section (1) or sub-section (2) for different local areas, estates, tenures or parts thereof.

* 103B. (1) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter, or a duly certified copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published, unless such publication is expressly denied;

Presumption as to final publication and correctness of record-of-rights

† 103B. (1) When a record-of-rights has been finally published under section 103A, the Revenue-officer shall within such time as the Board of Revenue may, by general or special order, prescribe, make a certificate stating the fact of such final publication and the date thereof, and shall date and subscribe the same with his name and official title.

Certificate of final publication as to correctness of record-of-rights

and a certificate, signed by the Revenue officer, or by the Collector of any district in which the local area, estate or tenure or part thereof to which the record of rights relates is wholly or partly situate, stating that a record of rights has been

(2) *The certificate of final publication or in the absence of such certificate, a certificate signed by the Collector of any district in which the local area, estate, tenure or part thereof to which the record of rights relates is wholly or partly*

* This section 103B applies to Western Bengal. It was substituted for the former section 103B, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 22.

† This section 103B applies to Eastern Bengal. It was substituted for the former section 103B, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B & A. Act I of 1908), s. 21.

The former section 103B ran thus :

"103B. A certificate signed by the Revenue-officer, stating that a record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication, and every entry in a record-of-rights so published shall be presumed to be correct until the contrary is proved."

finally published *under this Chapter*, shall be conclusive *evidence* of such publication

situatē, stating that a record of rights has been finally published *on a specified date*, shall be conclusive *proof* of such publication *and of the date thereof*.

2) The Local Government may, by notification declare, with regard to any specified area, that a record of rights has been finally published for every village included in such area; and such notification shall be conclusive *evidence* of such publication.

(3) The Local Government may, by notification, declare, with regard to any specified area, that a record-of-rights has been finally published for every village included in such area; and such notification shall be conclusive *proof* of such publication.

(4) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter, or a duly certified copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published, unless such publication is expressly denied.

(3) Every entry in a record-of-right *so* published shall be *evidence* of the matter referred to in such entry, and shall be presumed to be correct until it is proved by *evidence* to be incorrect.

(5) Every entry in a record-of-rights *finally* published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until it is proved by *evidence* to be correct.

Part II —Settlement of Rents, preparation of Settlement Rent-roll, and (disposal of objections*), in cases where a settlement of land revenue is being or is about to be made

104. In every case in which a settlement of land-revenue is being or is about to be made, the Revenue-officer shall, after publication of the draft of the record-of-rights under section 103A, sub-section (1),—

Settlement of rents and preparation of Settlement Rent roll when to be undertaken by Revenue-officer

(a) settle fair and equitable rents for tenants of every class,

* The words within brackets, were substituted for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s 23 and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s 22.

(b) notwithstanding anything contained in section 102, settle a fair and equitable rent for any land in respect of which he has recorded, in pursuance of (clause (1)) of section 102, that the occupant is not entitled to hold it without payment of rent, and

(c) prepare a Settlement Rent-roll

* (Provided that the Revenue officer shall not settle the rents of tenants of every class in an estate or tenure belonging to the Government, if it does not appear to the Local Government to be expedient that he should do so.)

104A. (1) For the purposes of settling rents under this Part and preparing a Settlement Rent roll, the Revenue officer may proceed in any one or more of the following ways or partly in one of those ways and partly in another, that is to say,—

Procedure for settlement of rents and preparation of Settlement Rent-roll under this Part

- (a) if in any case the landlord and tenant agree between themselves as to the amount of the rent fairly and equitably payable, the Revenue officer shall satisfy himself that the rent so agreed upon is fair and equitable, and if he is so satisfied, but not otherwise, it may be settled and recorded as the fair and equitable rent,
- (b) the Revenue officer may himself propose what he deems to be the fair and equitable rent, and if the amount so proposed is accepted, either orally or in writing, by the tenant, and if the landlord, after notice to attend, raises no objection, the rent so proposed may be settled and recorded as the fair and equitable rent;
- (c) if the circumstances are, in the opinion of the Revenue officer, such as to make it practicable to prepare a Table of Rates showing for any local area, estate, tenure or village or part thereof, or for each class of land in any local area, estate, tenure or village or part thereof, the rate or rates of rent fairly and equitably payable by tenure-holders and *rayats* and under-*rayats* of each class, he may frame a Table of Rates and settle and record all or any of the rents on the basis of such rates in the manner hereinafter described;

* The proviso was added to section 104, for western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Bengal Act I of 1907), s. 21 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act 1908 (E. B. & A. Act I of 1908), s. 23, (2)

- (d) the Revenue officer may settle all or any of the rents by maintaining the existing rentals recorded in the record of rights as published under section 103A, subsection (1), or by enhancing or reducing such rentals

Provided that, in making any such settlement, regard shall be had to the principles laid down in sections 6 to 9 (both inclusive) 27 to 30 (both inclusive), 38, 39, 43, 50 to 52 (both inclusive), 180 and 191

(2) The Settlement Rent roll shall show the name of each landlord and of each tenant whose rent has been settled, and the amount of each tenant's rent payable for the area shown against his name.

104B (1) If a Table of Rates is prepared, it shall specify—
Contents of Table of Rates

- (a) the class or several classes of land for which, having regard to the nature of the soil, situation, means of irrigation, and other like considerations, it is in the opinion of the Revenue officer necessary or practicable to fix a rate or different rates of rent, and

- (a) the rate or rates of rent fairly and equitably payable by tenants holding land of each such class whose rent is liable to alteration.

(2) When the Revenue officer has prepared the Table of Rates, he shall publish it in the local area, estate, tenure or village to which it relates, in the vernacular language prevailing in the district, and in the prescribed manner.

(3) Any person objecting to any entry in the Table of Rates may present a petition to the Revenue officer within a period of one month after such publication, and the Revenue officer shall consider any such objection and may alter or amend the Table.

(4) If no objection is made within the said period of one month, or, where objections are made, after they have been disposed of, the Revenue officer shall submit his proceedings to the Revenue authority empowered by rule made by the Local Government to confirm the Tables and Rent-rolls prepared under this Part (hereinafter called the "confirming authority"), with a full statement of the grounds of his proposals, and shall forward any petitions of objection which he may have received.

(5) The confirming authority may confirm a Table submitted under sub section (4), or may disallow the same, or may amend the same, in any manner which appears to it proper, and may allow in whole or in part any objection forwarded therewith or subsequently made or may return the case for further inquiry.

(6) When a Table of Rates has been confirmed by the confirming authority, the order confirming it shall be conclusive evidence that the proceedings for the preparation of the Table have been duly conducted in accordance with this Act, and it may be presumed that the rates shown in the Table for tenants of each class for each class of land, are the fair and equitable rates payable for land of that class within the area to which the Table applies.

104C. When a Table of Rates has been confirmed under section 104B, sub section (5), the Revenue officer may settle all or any of the rents and prepare the Settlement Rent-roll on the basis of the rates shown in the Table by calculating the rental of each tenure or each holding of a *raiat* or under *raiat* on the area of such tenure or holding at the said rates.

Provided that the Revenue officer shall not be bound to apply the said rates in any particular case in which he may consider it unfair or inequitable to do so.

104D. In framing a Table of Rates under section 104B, and in settling rents under section 104C, the Revenue officer shall be guided by such rules as the Local Government may make in this behalf, and shall, so far as may be, and subject to the proviso to the said section 104C, have regard to the general principles of this Act regulating the enhancement or reduction of rents.

104E. (1) When a Settlement Rent-roll for a local area, estate, tenure or village or part thereof has been prepared the Revenue officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period, and shall receive and consider any objections made to any entry therein, or omission therefrom, during the period of publication and shall dispose of such objections according to such rules as the Local Government may prescribe.

(2) The Revenue officer may, of his own motion or on the application of any party aggrieved at any time before a Settlement Rent-roll is submitted to the confirming authority under section 104F, revise any rent entered therein :

Provided that no such entry shall be revised until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

104F. (1) When all objections have been disposed of under section 104E, the Revenue-officer shall submit the Settlement Rent-roll to the confirming authority with a full statement of the grounds of his proposals and a summary of the objections (if any) which he has received.

Final revision of Settlement Rent-roll, and incorporation of the same in the record-of-rights

(2) The confirming authority may sanction the Settlement Rent-roll, with or without amendment, or may return it for revision.

Provided that no entry shall be amended, or omission supplied, until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(3) After sanction by the confirming authority, the Revenue officer shall finally frame the Settlement Rent-roll and shall incorporate it with the record-of-rights published in draft under section 103A.

104G. (1) An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer prior to the final publication of the record-of-rights on any objection made under section 104B, subsection (3), or section 104E; and such appeal shall lie to such superior Revenue authority as the Local Government may by rule prescribe.

Appeal to, and revision by superior Revenue authorities

(2) The Board of Revenue may, in any case under this Part, on application or of its own motion, direct the revision of any record of rights, or any portion of a record of-rights, at any time within two years from the date of the certificate of final publication, but not so as to affect any order passed by a Civil Court under section 104H.

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

104H. (1) Any person aggrieved by an entry of a rent settled in a Settlement Rent-roll prepared under sections 104A to 104F and incorporated in a record-of-rights finally published under section 103A, or by an omission to settle a rent for entry in such Settlement Rent roll, may institute a suit in the Civil Court which would have jurisdiction to entertain a suit for the possession of the land to which the entry relates or in respect of which the omission was made

Jurisdiction of Civil Courts in matters relating to rent

(2) Such suit must be instituted within six months from the date of the certificate of final publication of the record-of-rights, or, if an appeal has been presented to a Revenue authority under section 104G, then within six months from the date of the disposal of such appeal

(3) Such suit may be instituted on any of the following grounds and on no others, namely :—

- (a) that the land is not liable to the payment of rent ,
- (b) that the land, although entered in the record-of-rights, as being held rent free, is liable to the payment of rent,
- (c) that the relation of landlord and tenant does not exist ;
- (d) that land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy ;
- (e) that the tenant belongs to a class different from that to which he is shown in the record of-rights as belonging ,
- (f) that the Revenue-officer has not postponed the operation of the settled rent under the provisions of section 110, clause (a), or has wrongly fixed the date from which it is to take effect under that clause ;

*(g) that the special conditions and incidents of the tenancy, §[or any right of way or other easement attaching to the land *which is the subject of the tenancy*, have not, or has not, been recorded, or have or has] been wrongly recorded.

† (g) that the special conditions and incidents of the tenancy have not been recorded or have been wrongly recorded ;

‡[(h)] that any right of way or other easement attaching to the land has not been recorded, or has been wrongly recorded].

The Secretary of State for India in Council shall not be made a defendant in any such suit unless the Government is landlord or tenant of the land to which the aforesaid entry relates or in respect of which the aforesaid omission was made.

(†) If it appears to the Court that the entry of rent settled is incorrect, it shall, in case (a) or case (c) mentioned in sub section (3), declare that no rent is payable, and shall in any other case settle a fair rent ;

* This clause (g) applies to western Bengal.

† This clause (g) applies to Eastern Bengal

‡ Clause (h) applies only to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. A. Act] of 1908), s 24.

§ These words in square brackets in this clause (g) were substituted for the words "have not been recorded, or have," for western Bengal, by The Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 25.

and, in any case referred to in clause (f) or clause (g) of the said sub-section (3), the Court may declare the date from which the rent settled is to take effect, or pass such order relating to the entry as it may think fit.

(5) When the Court has declared under sub-section (4) that no rent is payable, the entry to the contrary effect in the record of rights shall be deemed to be cancelled.

(6) In settling a fair rent under sub-section (4) the Court shall be guided by the rents of the other tenures or holdings of the same class comprised in the same Settlement Rent-roll, as settled under sections 104A to 104F.

(7) Any rent settled by the Court under sub-section (4) shall be deemed to have been duly settled in place of the rent entered in the Settlement Rent Roll.

(8) Save as provided in this section, no suit shall be brought in any Civil Court in respect of the settlement of any rent or the omission to settle any rent under sections 104A to 104F.

(9) When a Civil Court has passed final orders or a decree under this section, it shall notify the same to the Collector of the district.

104J. Subject to the provisions of section 104H, all rents settled under sections 104A to 104F and entered in a record of rights finally published under section 103A, or settled under section 104G, shall be deemed to have been correctly settled and to be fair and equitable rents within the meaning of this Act.

Part III —Settlement of Rents and decision of disputes, in cases where a settlement of land revenue is not being or is not about to be made.

105 (1) When, in any case in which a settlement of land-revenue is not being made or is not about to be made, either the landlord or the tenant applies, within two months from the date of the certificate of the final publication of the record-of-rights under section 103A, sub-section (2), for a settlement of rent, the Revenue-officer shall settle a fair and equitable rent in respect of the land held by the tenant.

Explanation.—A superior landlord may apply for a settlement of rent notwithstanding that his estate or tenure or part thereof has been temporarily leased.

(2) When, in any case in which a settlement of land-revenue is not being made or is not about to be made, the Revenue officer

has recorded, in pursuance of *[clause (j)] of section 102, that the occupant of any land claimed to be held rent-free is not entitled to hold it without payment of rent, and either the landlord or the occupant applies, within two months from the date of the certificate of the final publication of the record-of rights under section 103A, sub-section (2), for a settlement of rent, the Revenue officer shall settle a fair and equitable rent for the land.

(3) Every application under sub-section (1) or sub-section (2) shall, notwithstanding anything contained in the Court-fees Act, 1870, bear such stamp as the "Local Government"† may, from time to time, prescribe by notification in the "Local Official Gazette."‡

(4) In settling rents under this section, the Revenue officer shall presume, until the contrary is proved, that the existing rent is fair and equitable, and shall have regard to the rules laid down in this Act for the guidance of the Civil Court in increasing or reducing rents, as the case may be.

(5) The Revenue-officer may in any case under this section propose to the parties such rents as he considers fair and equitable; and the rents so proposed, if accepted orally or in writing by the parties, may be recorded as the fair rents, and shall be deemed to have been duly settled under this Act.

(6) Where the parties agree among themselves, by compromise or otherwise, as to the amount of the fair rent the Revenue-officer shall satisfy himself that the amount agreed* upon is fair and equitable, and, if so satisfied but not otherwise, he shall record the amount so agreed upon as the fair and equitable rent. If not so satisfied, he shall himself settle a fair and equitable rent as provided in sub-sections (4) and (5).

‡ [(7) Where the lands of the tenancy are included in different local areas for which separate records are framed, the period of limitation specified in sub-section (1) shall begin to run from the date of the certificate of final publica-

* This reference "clause (j)" was substituted for the reference "clause (i)", for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 24 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 23 (1).

† The words within quotations have been substituted by Act 38 of 1920

‡ Sub-section (7) applies only to Eastern Bengal. It was added by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 25.

tion of the last record which contains entries relating to the tenancy.]

Decision of questions arising during the course of settlement of rents under this part

* 105A Where, in any proceedings for the settlement of rents under this Part, any of the following issues arise :—

- (a) whether the land is, or is not, liable to the payment of rent,
- (b) whether the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent,
- (c) whether the relation of landlord and tenant exists,
- (d) whether the land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy,
- (e) whether the tenant belongs to a class different from that to which he is shown in the record-of rights as belonging,
- (f) whether the special conditions and incidents of the tenancy, or any right of way or other easement attaching to the land, have not, or has not, been recorded or have, or has, been wrongly recorded,

the Revenue officer shall try and decide such issue and settle the rent under section 105 accordingly :

Provided that the Revenue-officer shall not try any issue under this section, which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, and has been tried and decided, or is already being tried, by a Revenue-officer in a suit instituted before him under section 106.

†106 In proceedings under this Part, a Institution of suit before a Revenue-officer	‡106. (1) In proceedings under this Part a suit may be instituted before a Reve-
this Part, a suit may be instituted before a Reve-	Institution of suit before a Revenue-officer

* Section 105A was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 26, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B. A Act I of 1908), s. 26

† This section 106 applies to Western Bengal. It was substituted for the original section 106 by the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben. Act I of 1903), s. 4

‡ This section 106 (1) applies to Eastern Bengal. It was substituted for the original section 106 by the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben Act I of 1903), s. 4

It was re numbered as 106 (1), for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B & A, Act I of 1908) s. 27 (1)

nue officer at any time within three months from the date of the certificate of the final publication of the record of rights under sub section (2) of section 103A of this Act by presenting a plaint on stamped paper, for the decision of any dispute regarding any entry which a Revenue-officer has made in or any omission which the said officer has made from the record.

whether such dispute be between landlord and tenant, or between landlords of the same or of neighbouring estates, or between tenant and tenant, or as to whether the relationship of landlord and tenant exists, or as to whether land held rent free is properly so held, or as to any other matter,

and the Revenue-officer shall hear and decide the dispute :

Provided that the Revenue-officer may, subject to such rules as the Local Government may prescribe in this behalf, transfer any particular case or class of cases to a competent Civil Court for trial :

* [Provided also that in any suit under this section the Revenue-officer shall not try any issue which has been or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, in proceed-

nue officer at any time within three months from the date of the certificate of the final publication of the record of rights under sub section (2) of section 103A of this Act, by presenting a plaint on stamped paper for the decision of any dispute regarding any entry which a Revenue-officer has made in or any omission which the said officer has made from the record

whether such dispute be between landlord and tenant or between landlords of the same or of neighbouring estates or between tenant and tenant, or as to whether the relationship of landlord and tenant exists, or as to whether land held rent-free is properly so held, or as to any other matter ;

and the Revenue-officer shall hear and decide the dispute :

Provided that the Revenue-officer may, subject to such rules as the Local Government may prescribe in this behalf, transfer any particular case or class of cases to a competent Civil Court for trial :

* [Provided also that in any suit under this section the Revenue-officer shall not try any issue which has been, or is already, directly and substantially in issue between the same parties or between parties under whom they or any of them claim, in proceed-

* This proviso was added to section 106, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. I of 1907), s. 27, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 27 (2)

ings for the settlement of rents under this Part, where such issue has been tried and decided, or is already being tried, by a Revenue-officer under section 105A]

ings for the settlement of rents under this Part, where such issue has been tried and decided, or is already being tried, by a Revenue-officer under section 105A.]

* (2) Where the lands to which the dispute relates are situated in local areas for which separate records are framed, the period of limitation specified in sub-section (1) shall begin to run from the date of the certificate of final publication of the last record which contains entries relating to such lands.

107. (1) †[In all proceedings under section 105, section 105A and section 106] the Revenue-officer shall subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure‡ for the trial of suits, and his decision in every such proceeding shall have the force and effect of a decree of a Civil Court in a suit between the parties, and, subject to the provisions of sections 108 and 109A, shall be final

§(2) A note of all rents settled under section 105, and of all decisions of issues or disputes under section 105A or section 106, and of all rents commuted under section 40 by a Revenue-

* Sub-section (2) applies only to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B & A. Act I of 1908), s. 27 (3)

† These words and figures in square brackets in section 107 (1) were substituted for the words and figures "In all proceedings for the settlement of rent under this Part, and in all proceedings under section 106," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 28 (a), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B. & A. Act I of 1908), s. 28 (a)

‡ Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1903, and this reference should now be taken to be made to that Code—see section 158.

§ This sub-section (2) was substituted for the original subsection (2), for the western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 28 (b), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B. & A. Act I of 1903), s. 28 (b) The original sub-section ran thus —

"(2) A note of all rents settled and of all decisions of disputes by the Revenue officer under section 105 or section 106 shall be made by him in the record of rights finally published under section 103A, sub-section (2), and such note shall be considered as part of the record."

officer appointed by the designation of Settlement Officer or Assistant Settlement Officer, shall be made in the record of rights finally published under sub section (2) of section 103A ; and such note shall be considered a part of the record]

108. Any Revenue-officer especially empowered by the Local Government in this behalf, may, on application or of his own motion, within twelve months from the making of any order or decision under section 105, * [section 105A,] section 106 or section 107, revise the same, whether it was made by himself or by any other Revenue-officer, but not so as to affect any order passed or decree made under section 109 A .

Provided that no such order or decision shall be so revised if an appeal from it is pending under section 109A or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

†**108A.** Any Revenue officer specially empowered by the Local Government in this behalf may, on application or of his own motion, within twelve months from the date of the certificate of the final publication of the record-of rights under sub-section (2) of section 103A, correct any entry in such record of rights which he is satisfied has been made owing to a *bona fide* mistake.

Provided that no such correction shall be made if an appeal affecting such entry is pending under section 109A, or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

109 Subject to the provisions of section 109A, a Civil Court shall not entertain any application or suit concerning any matter which is or has already been the subject of an application made, ‡[suit instituted or proceedings taken under sections 105 to 108 (both inclusive)]

* These words in square brackets in section 108 were inserted, for western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. I of 1907), s. 29, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 29.

† Section 108 A was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) (Ben. Act I of 1907), s. 30, and for the Eastern Bengal and Assam Act 1908 by (E. B. & A. Act I of 1908), s. 30.

‡ The words and figures in square brackets in section 109 were substituted for the words "or suit instituted under section 105, section 106, section 107 (section 108,) or Western Bengal, by the Bengal Tenancy (Amendment) Act 1907 (Ben. Act of 1907), s. 31, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I 1908), s. 31.

109A. (1) The Local Government shall appoint one or more persons to be a Special Judge or Special Judges for the purpose of hearing appeals from the decisions of Revenue-officers under sections 105 to 108 (both inclusive)

(2) An appeal shall lie to the Special Judge from the decisions of a Revenue-officer under sections 105 to 108A* (both inclusive), and the provisions of the Code of Civil Procedure† relating to appeals shall as nearly as may be, apply to all such appeals

(3) Subject to the provisions of Chapter XLII of the Code of Civil Procedure an appeal shall lie to the High Court from the decision of a Special Judge in any case under this section (not being a decision settling a rent) as if he were a Court subordinate to the High Court within the meaning of the first section of that Chapter

Provided that, if in a second appeal the High Court alters the decision of the Special Judge in respect of any of the particulars with reference to which the rent of any tenure or holding has been settled, the Court may settle a new rent for the tenure or holding, but in so doing shall be guided by the rents of the other tenures or holdings of the same class comprised in the same record as ascertained under section 102 or settled under section 105 or section 108

Part IV.—Supplemental Provisions.

† **109B.** (1) In framing a record-of-rights and in deciding disputes, under this Chapter, the Revenue officer shall give effect to any lawful agreement or compromise made or entered into by any landlord and his tenant ;

§ **109B.** In all proceedings under this Chapter, the Revenue officer may presume that an agreement or compromise made or entered into by any landlord and his tenant is lawful ;

* This letter "A" was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 32, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B & A Act I of 1908), s. 32

† Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to that Code—see section 158

‡ These sections 109B to 109D apply to Western Bengal. They were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 33.

§ These sections 109B and 109C apply to Eastern Bengal. They were inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B & A Act I of 1908), s. 33.

but he shall not give effect to any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act.

(2) Where any agreement or compromise has been made for the purpose of settling a dispute as to the rent payable, the Revenue-officer shall,

in order to ascertain whether the effect of such agreement or compromise would be to enhance the rent in a manner, or to an extent, not allowed by section 29 in the case of a contract

record evidence as to the rent which was legally payable immediately before the period in respect of which the dispute arose.

(3) *Where* the terms of any agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, *the Revenue officer* shall not give effect to such agreement or compromise unless and until he is satisfied *by evidence* that the statements made by the parties thereto are correct.

but, when the terms of the agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, *he* shall not give effect to such agreement or compromise until he has given reasonable notice to such third parties to appear and be heard in the matter and unless and until he is satisfied that the statements made by the parties *to the agreement or compromise* are correct.

Illustration—A, a proprietor agrees that B, his tenant, shall be recorded as an occupancy raiyat this affects the rights of the tenants of B. The Revenue-officer must under sub-section (3) inquire whether B is a tenure-holder or a raiyat, as defined in section 5. If he finds on the evidence that B is a raiyat, he may give effect to the agreement, but shall not do so if he finds that B is a tenure-holder..

*** 109C (1)** Notwithstanding anything contained in section 109 B, if, in any case while the record is being prepared, the landlord and tenant agree as to the rent which shall be recorded as payable for the tenure or holding,

a Revenue-officer specially empowered in this behalf by the Local Government may, if he is satisfied that the rent agreed upon is fair and equitable, but not otherwise settle such rent as a fair and equitable rent, although the terms of the agreement are such that, if they were embodied in a contract, they could not be enforced under this Act,

and the provisions of section 113 shall apply to a rent so settled.

(2) A landlord or tenant may appeal to the Special Judge appointed under section 109A, on the ground that the rent settled by the Revenue officer, under sub section (1), as a fair and equitable rent, was not agreed to by such landlord or tenant, and on no other ground.

(3) The Board of Revenue may, on application made, or of its own motion in proceedings undertaken, within one year from the date of the order, under sub section (1), settling a rent as a fair and equitable rent, direct the revision of the rent so settled ;

* This section 109C is new and applies only to Western Bengal—see footnote † on last page

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter

***109D.** A note of all rents settled, and of all decisions of disputes, on revision or appeal, under section 108, section 109A, *or sub-section (2) or sub-section (3) of section 109C*, shall be made in the record of rights finally published under sub-section (2) of section 103A, and such note shall be considered as part of the record.

109C.† A note of all rents settled, and of all decisions of disputes, on revision or appeal, under section 108 *and* section 109A, shall be made in the record of rights finally published under sub-section (2) of section 103A; and such note shall be considered as part of the record.

110. When a rent is settled by a Revenue officer under this Chapter, it shall take effect from the beginning of the agricultural year next after the date of the decision fixing the rent or (if a settlement of land-revenue is being or is about to be made) the date of final publication of the Settlement Rent-roll.

Provided as follows:—

- (a) if the land is comprised in an area, estate or tenure in respect of which a settlement of land-revenue is being or is about to be made, the rent settled shall, subject to the provisions of sections 191 and 192, take effect from the expiration of the period of the current settlement, or from such other date after the expiration of that period as may be fixed by the Revenue-officer;
- (b) if the land is not comprised in an area, estate or tenure as aforesaid, and if the existing rent has been fixed by a contract binding between the parties for an unexpired term of years, the rent settled shall take effect from the expiration of that term, or from such other date after the expiration of that term as may be fixed by the Revenue-officer.

* This section 109D is new, and applies only to Western Bengal—see footnote † on page 8, *ante*.

† This section 109C is new, and applies only to Eastern Bengal—see footnote § on page 8, *ante*.

111. When an order has been made under section 101, directing the preparation of a record of rights, then, subject to the provisions of section 104H, a Civil Court shall not,—

- (a) where a settlement of land revenue is being or is about to be made—until after the final publication of the record-of-rights, and
- (b) where a settlement of land-revenue is not being made or is not about to be made—until three months after the final publication of the record-of-rights,
- entertain * [any application made under section 158, or] any suit or application for the alteration of the rent or the determination of the status of any tenant, in the area to which the record-of-rights applies

111A No suit shall be brought in any Civil Court in respect of any order directing the preparation of a record-of-rights under this Chapter or in respect of the framing, publication, signing or attestation of such a record or of any part of it, or, save as provided in section 104H, for the alteration of any entry in such a record of a rent settled under sections 104A to 104F :

Provided that any person who is dissatisfied with any entry in, or omission from, a record of rights framed in pursuance of an order made under section 101, sub-section (2), clause (d), which concerns a right of which he is in possession may institute a suit for declaration of his right under Chapter VI, of the Specific Relief Act, 1877 †

<p>§111B. (1) Where a record-of-rights has been prepared and finally published in respect of the land in an area in which a settlement of land revenue is not being made or is not</p>	<p>§111B. (1) Where a record-of-rights has been prepared and finally published in respect of the land in any area in which a settlement of land-revenue is not being made, or is not</p>
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* These words in square brackets in section 111, were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 34, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 34

† I of 1877.

‡ This section 111B applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 35.

§ This section 111B applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 35.

about to be made, no application or suit affecting such land or any tenant thereof shall, within three months from the date of the certificate of final publication of such record-of-rights, be made or instituted in any Civil Court for the decision of any of the following issues, namely :—

- (a) whether the land is or is not liable to the payment of rent ;
- (b) whether the relations of landlord and tenant exists ;
- (c) whether the land is part of a particular estate or or tenancy , or
- (d) whether there is any special condition or incident of the tenancy, or whether any right of way or other easement attaches to the land.

(2) If, before the final publication of the record-of-rights in such area, a suit involving the decision of any of the issues mentioned in sub-section (1) has been instituted in a Civil Court, the Revenue-officer shall not entertain any suit under section 106 involving the decision of the same issue.

(3) Where, in the course of settling fair rents under section 105, the Revenue officer finds that, by reason of a suit involving the decision of any of the issues mentioned in sub-section (1) having been instituted in a Civil Court before

about to be made, no application or suit affecting such land or any tenant thereof shall, within three months from the date of the certificate of final publication of such record-of-rights, be made or instituted in any Civil Court for the decision of any of the following issues, namely :—

- (a) whether the land is or is not liable to the payment of rent .
- (b) whether the relation of landlord and tenant exists ;
- (c) whether the land is part of a particular estate or tenancy , or
- (d) whether there is any special condition or incident of the tenancy, or whether any right of way or other easement attaches to the land

(2) If before the final publication of the record-of-rights in such area, a suit involving the decision of any of the issues mentioned in sub-section (1) has been instituted in a Civil Court, the Revenue officer shall not, in a suit under section 106 or in proceedings under section 105A, try such issue unless in such civil suit such issue is not in fact tried or decided

(3) Where, in the course of settling fair rents under section 105, the Revenue-officer finds that, by reason of a suit involving the decision of any of the issues mentioned in sub-section (1) having been instituted in a Civil Court before the final

the final publication of the record of rights, or before a Revenue officer under section 106 is unable to settle a fair rent until such issue is decided, the Revenue officer shall stay the proceedings for the settlement of a fair rent, pending a final decision on the issue,

and, after the issue has been finally decided, he shall settle a fair rent, as if the record of rights had been framed in accordance with such decision.

(4) Where the making of application or institution of a suit has been delayed owing to the operation of sub-section (1), the period of three months therein mentioned shall be excluded in computing the period of limitation prescribed for such suit or application.

publication of the record of rights or before a Revenue officer under section 106 is unable to settle a fair rent until such issue is decided, the Revenue officer shall stay the proceedings for the settlement of a fair rent, pending a final decision on the issue,

and, after the issue has been finally decided, he shall settle a fair rent, as if the record of rights had been framed in accordance with such decision.

(4) Where the making of an application or institution of a suit has been delayed owing to the operation of sub-section (1), the period of three months therein mentioned shall be excluded in computing the period of limitation prescribed for such suit or application.

112 (1) The Local Government,* may on being satisfied

Power to order that the exercise of the powers hereinafter special settlement is necessary in the interests of public order or of the local welfare.

* [or that any landlord is demanding rents which have been illegally enhanced above those entered as payable in a record of rights prepared under this Chapter, invest a Revenue officer]

† [or that any landlord is demanding or exacting rents in excess of the rents entered as payable in a record of rights prepared under this Chapter, or of the rents payable by reason of enhancements lawfully made after the final publication of such record, invest a Revenue-officer]

with the following powers or either of them, namely :—

(1) power to settle all rents ;

* Certain words after this repealed by Act 38 of 1920 have been omitted

† This clause applies to Western Bengal. It was substituted for the words "invest a Revenue officer acting under this Chapter" by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 36 (1).

‡ This clause applies to Eastern Bengal. It was substituted for the words "invest a Revenue-officer acting under this Chapter" by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 36 (1).

- (b) power when settling rents, to reduce rent if, in the opinion of the officer, the maintenance of existing rents would any ground, whether the specified in this Act or not, be unfair or inequitable

(2) The powers given under this section may be made exerciseable within a specified area either generally or with reference to specified cases or classes of cases.

*[(2a) A settlement of rents under this section shall be made in the manner provided by sections 101 to 104] (both inclusive)]

(3) When the Local Government takes any action under this section, the settlement-record prepared by the Revenue-officer shall not take effect until it has been finally confirmed by the Governor General in Council; [(and the revision, by direction of the Board of Revenue under sub-section (7) of section 104(1), of a record-of-rights, or any portion of a record-of-rights, prepared under this section, shall be subject to a like confirmation by the Governor General in Council,]

113. (1) When the rent of a tenure or holding is settled under this Chapter, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding or the holding of an under-*raiyat* having occupancy rights, for fifteen years, and, in the case of a non-occupancy holding or the holding of an under-*raiyat* not having occupancy rights, for five years; and no such rent shall be reduced within the periods aforesaid save on the ground of alteration in the area of the holding or on the ground specified in section 38, clause (a).

(2) The said periods of fifteen years and five years shall be counted from the date on which the rent settled takes effect under this Chapter.

114. (1) When the preparation of a record-of-rights has been directed or undertaken under this Chapter, Expenses of proceedings under Chapter in any case except where a settlement of land-revenue is being or is about to be made, the expenses incurred ‡ in carrying out the provisions of this Chapter in

* Subsection (2a) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 36 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 36 (2)

† These words in square brackets were added to section 112 (3), for Western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 36 (3), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 36 (3)

‡ The words "by the Government," in section 114 (1), were repealed, in Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 37 (a), and, in Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 37 and are omitted.

any local area, estate, tenure or part thereof (including expenses that may be incurred * [at any time, whether before or after the preparation of the record-of-rights, in the maintenance, repair or restoration] of boundary marks and other survey marks erected for the purpose of carrying out the provisions of this Chapter), or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords, tenants and occupants of land in that local area, estate, tenure or part in such proportions †[and in such instalments (if any) as the Local Government, having regard to all the circumstances, may determine.

‡ (2) The estimated amount of the expenses likely to be incurred for the maintenance, repair or restoration of boundary marks for a period not exceeding fifteen years, or such part of such amount as the Local Government may direct, may be recovered in advance in the same manner as if such expenses had been already incurred]

§ (3) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the Government as if it were an arrear of land-revenue due in respect of the said local area, estate, tenure or part.

¶ (4) The cost of preparing copies of survey maps and records-of-rights under this Chapter for distribution to landlords and tenants shall be deemed to be part of the expenses incurred in carrying out the provisions of this Chapter.]

* These words, in square brackets in section 114 (1) were substituted for the words "from time to time in the maintenance," for Western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 37 (b), and for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 37 (b).

† The words "and in any such instalments (if any)," in section 114 (1) were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 37 (c); and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 37 (c).

‡ This sub-section (2) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 37 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 37 (2).

§ The original sub-section (2) was renumbered (3), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 37 (3), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 37 (3).

¶ This sub-section (4) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 37 (4), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 37 (4).

Explanation—The word "tenure" in this section includes all revenue free and rent-free tenures and holdings within a local area, estate or tenure.

115. When the particulars mentioned in section 102, clause (b), have been recorded under this Chapter
 Presumption as to fixity of rent not to apply where record-of-rights has been prepared. in respect of any tenancy, the presumption under section 50 shall not thereafter apply to that tenancy.

<p>*115A. In the demarcation of village boundaries for the purpose of making a survey and preparing a record-of-rights under this Chapter, a Revenue-officer shall, so far as is possible and subject to the provisions of the Bengal Survey Act, 1875, preserve, as the unit of survey and record, the area contained within the exterior boundaries of the village maps of the revenue survey, if any ;</p>	<p>† 115A. In the demarcation of village boundaries for the purpose of making a survey and preparing a record - of rights under this Chapter, a Revenue-officer shall, so far as is possible, and subject to the provisions of the Bengal Survey Act, 1875, preserve, as the unit of survey and record, the area contained within the exterior boundaries of the village maps of the revenue survey, or other survey, if any, adopted under clause (10) (b) of section 3 as defining villages ;</p>
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and, where village maps prepared at a *previous revenue survey* exist, he shall not, without the sanction of the Board of Revenue, adopt any other area as such unit.

and, where village maps prepared at *such revenue or other survey* exist, he shall not, without the sanction of the Board of Revenue, adopt any other area as such unit.

* This section 115A applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s 38.

† This section 115A applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1903 (E. B & A. Act I of 1903), s. 38.

CHAPTER XI.

* [NON-ACQUISITION OF OCCUPANCY AND NON-OCCUPANCY RIGHTS
AND] RECORD OF PROPRIETOR'S PRIVATE LANDS.

116. Nothing in Chapter V shall confer a right of occupancy
Savings as to certain in, and nothing in Chapter VI shall apply
Lands. to,

† [lands acquired under the Land Acquisition Act, 1894,† for
the Government or for any Local Authority or for a Railway
Company, or lands belonging to the Government within a Canton-
ment, while such lands remained the property of the Govern-
ment, or of any Local Authority or Railway Company, or to]
a proprietor's private lands known in Bengal as *khamar*, *nij* or
nijda, and in Behar as *zua*, *nij*, *sur* or *khamat*], where any such
land is held under a lease for a term of years or under a lease
from year to year.

117. The Local Government may, from time to time, make
an order directing a Revenue-officer to make
Power for Government to order survey and record of proprietor's private lands. a survey and record of all the lands in a
specified local area which are a proprietor's
private lands within the meaning of the last
† foregoing section

118. In the case of any land alleged to be a proprietor's
private land, on the application of the pro-
prietor or of any tenant of the land, and on
his depositing the required amount for ex-
penses, a Revenue officer may, subject to,
and in accordance with, rules made in this
behalf by the Local Government, ascertain and record whether the
land is or is not a proprietor's private land.

* These words in square brackets were inserted for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 39, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 39.

† These words in square brackets in section 116 were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 40, and for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 40.

† I of 1894.

119. When a Revenue-officer proceeds under either of the two last foregoing sections, the provisions of * [sections 103A, 103B, 106, 107, 108, 109 and 109A] shall apply.

Procedure for recording private land.

Rules for determination of proprietor's private land.

120. (1) The Revenue-officer shall record as a proprietor's private land—

- (a) land which is proved to have been cultivated as *khamar*, [*ziraat, sir,*] *nij, nijot* [or *kamat*] by the proprietor himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the passing of this Act, and
- (b) cultivated land which is recognized by village usage as proprietor's *khamar*, [*ziraat, sir,*] *nij, nijot* [or *kamat*.]

(2) In determining whether any other land ought to be recorded as a proprietor's private land, the officer shall have regard to local custom, and to the question whether the land was, before the second day of March, 1883, specifically let as proprietor's private land, and to any other evidence that may be produced; but shall presume that land is not a proprietor's private land until the contrary is shown.

† [(2a) Notwithstanding anything contained in any agreement or compromise, or in any decree which is proved to his satisfaction to have been obtained by collusion or fraud, a Revenue-officer shall not record any land as a proprietor's private land, unless it is proved to be such by satisfactory evidence of the nature described in sub-section (1) or sub-section (2)].

(3) If any question arises in a Civil Court as to whether land is or is not a proprietor's private land, the Court shall have regard to the rules laid down in this section for the guidance of Revenue-officers.

* These words and figures in square brackets in s. 119 were substituted for the words and figures "sections 105 to 109, both inclusive," by the Bengal Tenancy (Amendment) Act, 1898, (Ben Act III of 1898), s. 10.

† Sub-section (2a) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 41. and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 41.

CHAPTER XII.

DISTRRAINT.

121 Where an arrear of rent is due to the landlord of a Cases in which an *rayat* or under-*rayat*, and has not been application for distaint due for more than a year, and no security may be made. has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the Civil Court requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,—

- (a) any crops or other products of the earth standing or ungathered on the holding ,
- (b) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-floor or place for treading out grain, or the like, whether in the fields or within a homestead :

Provided that an application shall not be made under this section—

- (1) by a proprietor or manager as defined under the Land Registration Act, 1876,* or a mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act; or
- (2) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed , or
- (3) in respect of the produce of any part of the holding which the tenant has sub-let with the written consent of the landlord.

From of application. **122.** (1) Every application under the last foregoing section shall specify—

- (a) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification ;
- (b) the name of the tenant ;
- (c) the period in respect of which the arrear is claimed ;
- (d) the amount of the arrear, with the interest, if any, claimed thereon and, when an amount in excess of the rent payable by the tenant in the last preceding

* Ben. Act VII of 1876.

agricultural year is claimed, the contract or proceeding, as the case may be, under which that amount is payable ;

(e) the nature and approximate value of the produce to be distrained ;

(f) the place where it is to be found, or such other particulars as may suffice for its identification ; and

(g) if it is standing or ungathered, the time at which it is likely to be cut or gathered.

(2) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure* of application. for the signing and verification of plants.

123. (1) The applicant shall, at the time of filing an application under the foregoing sections, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

(2) The Court may, if it thinks fit, examine the applicant, and shall, with as little delay as possible, admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

(3) Where a Court cannot forthwith admit or reject an application under sub-section (2), it may, if it thinks fit, make an order prohibiting the removal of the produce specified in the application pending the execution of an order for distraining the same or the rejection of the application.

(4) When an order for distraining any produce is made under this section at a considerable time before the produce is likely to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, if it think fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

124. If an application is admitted under the last foregoing section the Court shall depute an officer to Execution of order for distraint. distrain the produce specified therein, or such portion of that produce as it thinks fit ; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself, or placing some other person in charge of it in his behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the High Court :

Provided that produce which from its nature does not admit of being stored shall not be distrained under this section at any

* Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof.

time less than twenty days before the time when it would be fit for reaping or gathering

125 (1) The distraining officer shall, at the time of making service of demand and the distraint, serve on the defaulter a written account. ten demand for the arrear due and the costs incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made

(2) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(3) The demand and account shall, if practicable, be served personally ; but, if a person on whom they are to be served absconds or conceals himself or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides

126. (1) A distrained under this Chapter shall not prevent Right to reap, et c., any person from reaping, gathering or storing any produce ing any produce, or doing any other act necessary for its due preservation

(2) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood, or shall do whatever else may be necessary for the due preservation of the same.

(3) In either case the distrained property shall remain in the charge of the distraining officer, or of some other person appointed by him in this behalf.

127 (1) Unless the demand, with all costs of the distraint, be immediately satisfied, the distraining officer shall issue a proclamation specifying the particulars of the property distrained, and the demand for which it is distrained, and notifying that he will, at a place and on a day specified, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction :

Provided that when the crops or products distrained from their nature admit of being stored, but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

128. The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage

129. (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any person appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them

130. The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable, and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property the distraint shall be immediately withdrawn with respect to the remainder.

131. If on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorized to act in his behalf, applies to have the sale postponed till the next day, or (if a market is held at the place of sale) the next market-day, the sale shall be postponed until that day, and shall be then completed, whatever price may be offered for the property.

132. The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold.

133. When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

134. (1) From the proceeds of every sale of distrained property under this Chapter, the officer holding the sale shall pay the costs of the distraint and sale, calculated on a scale of charges prescribed by rules to be made, from time to time, by the Local Government in this behalf.

(2) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

135. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

136. (1) If at any time after a distraint has been made under this Chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property, where he is not the defaulter, deposits, in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 125, with all costs which may have been incurred after the service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same, and the distraint shall forthwith be withdrawn.

(2) When the distraining officer receives the deposit, he shall forthwith pay it into the Court.

(3) A receipt granted under this section to an owner of distrained property not being the defaulter, shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(4) After the expiration of one month from the date of a deposit being made under this section, the Court shall pay therefrom to the applicant for distraint the amount due to him, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

(5) A landlord shall not be deemed to have consented to his tenant's sub-letting the holding or any part thereof merely by reason of his having received an amount deposited under this section by an inferior tenant.

137. (1) When an inferior tenant, on his property being lawfully distrained under this Chapter for the default of a superior tenant, makes any payment under the last foregoing section, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under the last foregoing section to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

138 When land is sub-let, and any conflict arises under this Chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

139. When any conflict arises between an order for distraint issued under this Chapter and an order issued by a Civil Court for the attachment or sale of the property, which is the subject of the distraint, the order for distraint shall prevail, but if the property is sold under that order, the surplus proceeds of the sale shall not be paid under section 134 to the owner of the property without the sanction of the Court by which the order of attachment or sale was issued.

140. No appeal shall lie from any order passed by a Civil Court under this Chapter; but any person whose property is distrained on an application made under section 121, in any case in which such an application is not permitted by that section, may institute a suit against the applicant for the recovery of compensation.

141. (1) When the Local Government is of opinion that in any local area or in any class of cases it would, by reason of the character of the cultivation or the habits of the cultivators, be impracticable for a landlord to realize his rent by an application under this Chapter to the Civil Court, it may, from time to time, by order, authorize the landlord to distrain, by himself or his agent, any produce for the distraint of which he would be entitled to apply under this Chapter to the Civil Court

Provided that every person distraining any produce under such authorization shall proceed in the manner prescribed by section 124, and shall forthwith give notice, in such form as the High Court may, by rule, prescribe, to the Civil Court having jurisdiction to entertain an application for distraining the produce, and that Court shall, with no avoidable delay, depute an officer to take charge of the produce distrained.

(2) When an officer of the Court has taken charge of any distrained produce under this section the proceedings shall thereafter be conducted in all respects as if he had distrained it under section 124.

(3) The Local Government may at any time rescind any order made by it under this section.

142. The High Court may, from time to time, make rules, consistent with this Act, for regulating the procedure in all cases under this Chapter.

CHAPTER XIII.

JUDICIAL PROCEDURE.

143. (1) The High Court may, from time to time, with the approval of the Governor-General in Council, make rules, consistent with this Act, declaring that any portions of the Code of Civil Procedure* shall not apply to suits between landlord and tenant as such or to any specified classes of such suits, or shall apply to them subject to modifications specified in the rules.

(2) Subject to any rules so made, and subject also to the other provisions of this Act, the Code of Civil Procedure* shall apply to all such suits.

144. (1) The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure,* be deemed to have arisen within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the suit is brought.

(2) When under this Act a Civil Court is authorized to make an order on the application of a landlord or a tenant, the application shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the application is brought.

145 Every *naib* or *gumashta* of a landlord empowered in this behalf by a written authority under the hand of the landlord, shall, for the purposes of every such suit or application, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure* notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending, or in which the application is made.

146. The particulars referred to in section 58 of the Code of Civil Procedure shall, in the case of such suits, instead of being entered in the register of Civil suits prescribed by that

* Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof.

section, be entered in a special register to be kept by each Civil Court, in such form as the Local Government may, from time to time prescribe in this behalf.

147. Subject to the provisions of section 373 of the Code of Civil Procedure, where a landlord has instituted a suit against a *raiyat* for the recovery of any rent of his holding, the landlord shall not institute another suit against him for the recovery of any rent of that holding until after three months from the date of the institution of the previous suit.

<p>*147A. (1) The provisions of section 375 of the Code of Civil Procedure shall not apply to any suit between landlord and tenant as such.</p>	<p>†147A Notwithstanding anything contained in section 373 of the Code of Civil Procedure,†</p>
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<p>(2) If any snit between landlord and tenant as such is <i>adjusted wholly or in part by any lawful agreement or compromise, or if the defendant satisfies the plaintiff in respect to the whole or any part of the matter of the suit</i>, the Court shall pass a decree in accordance with such agreement, compromise, or satisfaction, so far as it relates to the suit :</p>	<p>if any suit between landlord and tenant as such is <i>wholly or partly adjusted by agreement or compromise</i>, the Court shall <i>not</i> pass a decree in accordance with such agreement or compromise <i>unless it is satisfied, for reasons to be recorded in writing, that the terms of such agreement or compromise are such that, if embodied in a contract, they could be enforced under this Act.</i></p>
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Provided that no decree shall be passed in accordance with any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act.

<p>(3) Where any agreement or compromise has been made for</p>	<p>Provided that in the case of a suit instituted by the land-</p>
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* This section 147A applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act, I of 1907), s 42,

† This section 147A applies to Eastern Bengal. It was inserted, by the Eastern Bengal and Assam Tenancy (Amendment Act 1908) E. B. & A. Act I of 1908.

the purpose of settling a dispute as to the rent payable, the Court shall,

in order to ascertain whether the effect of such agreement or compromise would be to enhance the rent in a manner, or to an extent, not allowed by section 29 in the case of a contract,

lord to enhance the rent, the enhancement, if any, agreed upon may be decreed if the Court be satisfied, for reasons to be recorded in writing, that such enhancement is fair and equitable and in accordance with the rules laid down in this Act for the guidance of Courts in increasing rents.

record evidence as to the rent which was legally payable immediately before the period in respect of which the dispute arose.

(4) Where the terms of any agreement or compromise are such as might, unfairly or inequitably affect the rights of third parties, the Court shall not pass a decree in accordance with such agreement or compromise, unless and until it is satisfied by evidence that the statements made by the parties thereto are correct.

Illustration A, a proprietor, agrees that B his tenant, shall be recorded as an occupancy-ryayat this affects the rights of the tenants of B The Court must, under sub-section (4), inquire whether B is a tenure-holder or a ryayat as defined in section 5 If the Court finds on the evidence that B is a ryayat, it may pass a decree in accordance with the agreement, but shall not do so if it finds that B is a tenure holder

(5) A decree passed in accordance with any lawful agreement, compromise or satisfaction shall be final so far as it relates to so much of the subject matter of the suit as is dealt with by such agreement, compromise or satisfaction.

***147B.** In all areas for which a record-of-rights has been prepared and finally published under sub-section (2) of section 103A, a Civil Court shall, in all suits between landlord and tenant as such, have regard to the entries in such record-of-rights relating to the subject-matter in dispute which may be produced before it, unless such entries have been proved by evidence to be incorrect; and, when a Civil Court passes a decree at variance with such entries, it shall record its reasons for so doing.

Procedure in rent suit. **148.** The following rules shall apply to suits for the recovery of rent :—

(a) section 121 to 127 (both inclusive), 129, 305 and 320 to 326 (both inclusive) of the Code of Civil Procedure† shall not apply to any such suit :

(b) the plaint shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure,† a statement of the situation, designation, extent and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the extent or boundaries, in lieu thereof a description sufficient for identification :

‡ *br*) where the the suit is for the rent of land situated within an area for which a record-of-rights has been prepared and finally published, the plaint shall further contain a list of the survey plots comprised in the tenancy, and a statement of the rental of the tenancy according to the record of-rights,

§(*br*) where the suit is for the rent of land situated within an area for which a record-of-rights has been finally published, the plaint shall contain a statement of the serial number or numbers borne by the tenancy in the record-of-rights, and of the area and rental of the tenancy accord-

* Section 147B was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s 42, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B & A. Act I of 1 of), s. 42.

† Act XIV of 1862 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to that Code.

‡ This clause (*br*) applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben- Act I of 1907), s 43 (1)

§ This clause (*br*) applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 48 (1).

unless the Court is satisfied, for reasons to be recorded in writing, that the plaintiff was prevented by any sufficient cause from furnishing such list or statement :

Provided that in all cases in which the Court admits a plaint which does not contain such statement, the Court shall, and in any other case in which it sees fit the Court may, require the collector to supply, without payment of fee, a verified or certified copy of, or extract from, the record of-rights relating to the tenancy .

ing to such record, unless the Court is satisfied, for reasons to be recorded in writing, that the plaintiff was prevented by any sufficient cause from furnishing such statement .

Provided that, in all cases in which the Court admits a plaint which does not contain such statement, the Court shall, and in any other case in which it sees fit the Court may, require the Collector to supply, without payment of fee, a verified or certified, copy of, or extract from, the record of-rights relating to the tenancy

Provided also that such statement, when contained in the plaint, shall be deemed to be a description of the land sufficient for identification within the meaning of clause (b).

* (b2) where an alteration has been made in the area of the tenancy since the record-of-rights was prepared and finally published, the plaint shall further contain a statement of the rental of the original tenancy according to the record-of-rights, together with a statement showing how the amount of rent claimed in the suit has been computed ,

(c) the summons shall be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the statement of issues only ,

(d) the service of the summons may, if the High Court by rule, either generally, or specially for any local area, so directs, be effected either in addition to, or in sub-

* Clause (b2) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 43 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 43 (1).

stitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post Office Act, 1866 ;*

when a summons is so forwarded in a letter, and it is proved that the letter was duly posted and registered, the Court may presume that the summons has been duly served ,

(e) a written statement shall not be filed without the leave of the Court :

(f) the rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure† shall apply, whether an appeal is allowed or not :

‡[(f)] when any account books, rent-rolls, collection-papers, measurement-papers or maps have been produced by the landlord before any Court, and have been admitted in evidence in a suit pending therein,

copies of, or extracts from, such documents, certified by a duly authorized officer of such Court to be true copies or extracts, may, with the permission of the Court, be substituted on the record for the originals, which may

§[(f)] when any account-books, rent-rolls, collection-papers, measurement-papers, maps or extracts from records-of-rights have been produced by the landlord before any Court, and have been admitted in evidence in a suit pending therein,

copies of, or extracts from, such documents, certified by a duly authorized officer of such Court to be true copies or extracts, may, with the permission of the Court, be substituted on the record for the originals, which may

* Act XIV of 1866 has been repealed and re-enacted by the Indian Post Office Act, 1898 (VI of 1898), and this reference should now be construed as a reference to that Act.

† Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to that Code—see s. 156 thereof.

‡ This clause (f) applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 43 (2).

§ This clause (f) applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 43 (2).

then be returned to the landlord ;

and thereafter copies and extracts, so certified, may be admitted in evidence in any other suit instituted in the same or any other Court, unless the Court before which they are produced sees fit to require the production of the originals :

then be returned to the landlord ,

and thereafter copies and extracts, so certified, may be admitted in evidence in any other suit instituted in the same or any other Court, unless the Court before which they are produced sees fit to require the production of the originals :

(g) the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof, unless it is a decree for ejectment for arrears :

(h) notwithstanding anything contained in section 232 of the Code of Civil Procedure,* an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become and is vested in him.

†148A. Where a co sharer landlord who Suits for arrears of rent by co sharer landlords. has instituted a suit to recover the rent due to all the co-sharer landlords in respect of an entire tenure or holding, and has made all the remaining co-sharers parties defendant to the suit, is unable to ascertain what rent is due for the whole tenure or holding, or whether the rent is due to the other co-sharer landlords has

‡148A. Where a co-sharer landlord who Suits for arrears of rent by co-sharer landlord *is entitled to sue for his share of the rent separately* and has instituted a suit to recover the rent due to all the co-sharer landlords in respect of an entire tenure or holding, and has made all the remaining co-sharer parties defendant to the suit, is unable to ascertain what rent is due for the whole tenure or holding, or

* Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to that Code—see s 158 thereof.

† This section 148A applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 44

‡ This section 148A applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 44

been paid or not, owing to the refusal or neglect of the tenant, or of the co-sharer landlords defendant to the suit, to furnish him with correct information on these points, or on either of them,

whether the rent due to the other co-sharer landlords has been paid or not, owing to the refusal or neglect of the tenant, or of the co-sharer landlords defendant to the suit, to furnish him with correct information on these points, or on either of them,

such plaintiff co-sharer landlord shall be entitled to proceed with the suit for his share only of the rent ;

such plaintiff co-sharer landlord shall be entitled to proceed with the suit for his share only of the rent ;

and a decree obtained by him in a suit so framed shall, as regards the remedies for enforcing the same, be as effectual as a decree obtained by a sole landlord or an entire body of landlords in a suit brought for the rent due to all the co-sharers.

and a decree obtained by him in a suit so framed shall, as regards the remedies for enforcing the same, be as effectual as a decree obtained by a sole landlord or an entire body of landlords in a suit brought for the rent due to all the co-sharers.

149. (1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff, but to a third person, the Court shall* refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(2) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment out of the money, it shall be paid out to the plaintiff on his application.

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3).

* The words "except for special reasons to be recorded in writing," in section 149 (1), were repealed, in Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 45, and, in Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 45. and are omitted,

150 When a defendant admits that money is due from him to the plaintiff on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court shall* refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due

151. When a defendant is liable to pay money into Court under either of the two last foregoing sections, if the Court thinks that there are sufficient reasons for so ordering, it may take cognizance of the defendant's plea on his paying into Court such reasonable portion of the money as the Court directs.

152. When a defendant pays money into Court under either of the said sections, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be

153. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal, in any suit instituted by a landlord for the recovery of rent where—

(a) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or

(b) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section and the amount claimed in the suit does not exceed fifty rupees ;

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant, or a question of the amount of rent annually payable by a tenant :

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, if it appears that the judicial officer has exercised a jurisdiction not vested in him by law or has

* The words "except for special reasons to be recorded in writing", in section 150, were repealed, in Western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 45, and, in Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 45 and are omitted.

failed to exercise a jurisdiction so vested or has acted in the exercise of his jurisdiction illegally or with material irregularity, and may pass such order as the District Judge thinks fit.

* [Explanation —A question as to the regularity of the proceedings in publishing or conducting a sale in execution of a decree for arrears of rent is not a question relating to title to land or to some interest in land as between parties having conflicting claims thereto]

†153A. Every application for an order under section 108 of the Code of Civil Procedure† to set aside a decree passed *ex parte*, or for a review of Judgement, under section 623 of the said Code, in a suit between a landlord and tenant as such, shall contain a statement of the injury sustained by the applicant by reason of the decree or Judgement ;

and no such application shall be admitted —

(a) unless the applicant has, at or before the time when the application is admitted, deposited in the Court to which the application is presented the amount, if any, which he admits to be due from him to the decree-holder, or such amount as the Court may, for reasons to be recorded by it in writing, direct ; or

(b) unless the Court, after considering the statement of injury, is satisfied, for reasons to be recorded by it in writing, that no such deposit is necessary.

154. A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year shall ordinarily take effect on the commencement of the agricultural year next following ; and, if passed in a suit instituted in the last four months of the agricultural year next following ; and, if passed in a suit instituted in the last four months of the agricultural year, shall ordinarily take effect on the commencement of the agricultural year next but one following ; but nothing in this section shall prevent the Court from fixing for special reasons, a later date from which any such decree shall take effect.

* This Explanation was added to section 153, for Western Bengal, by the Bengal Tenancy (Amendment) Act 1907 (Ben Act I of 1907), s. 46, and for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 46.

† Section 153A was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 47, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 47.

‡ Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to that Code—see section 158 thereof.

155. (1) A suit for the ejectment of a tenant, on the ground—
Relief against for-
feitures

(a) that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or

(b) that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment,

shall not be entertained unless the landlord has served, in the prescribed manner, a notice on the tenant specifying the particular misuse or breach complained of, and, where the misuse or breach is capable of remedy, requiring the tenant to remedy the same, and, in any case, to pay reasonable compensation for the misuse or breach, and the tenant has failed to comply within a reasonable time with that request.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, for special reasons, extend a period fixed by it under sub-section (2)

(4) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed

156. The following rules shall apply in the case of every

Rights of ejected *raiyat* ejected from a holding —
raiyats in respect of crops
and land prepared for
sowing.

(a) when the *raiyat* has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment :

- (b) when the *raiyat* has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value ;
- (c) but a *raiyat* shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section where, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage ; and
- (d) if the landlord elects under this section to allow a *raiyat* to retain possession of the land, the *raiyat* shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

157. When a plaintiff institutes a suit for the ejectment of a trespasser he may, if he thinks fit, claim Power for Court to fix fair rent as alternative to ejectment as alternative relief that the defendant be declared liable to pay for the land in his possession a fair and equitable rent to be determined by the Court, and the Court may grant such relief accordingly

158. (1) * [Subject to the provisions of section 111,] the Application to determine incidents of suit for the possession of land may, on the tenancy. application of either the landlord or the tenant of the land, determine all or any of the following matters, namely :—

- (a) the situation, quantity and boundaries of the land ,
- (b) the name and description of the tenant thereof (if any) ,
- (c) the class to which he belongs, that is to say, whether he is a tenure-holder, *raiyat* holding at fixed rates, occupancy *raiyat*, non-occupancy-*raiyat*, or under-*raiyat*, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure ; and

* These words in square brackets in section 158 (1) were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 48, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 48.

(d) the rent payable by him at the time of the application.

(2) If, in the opinion of the Court, any of these matters cannot be satisfactorily determined without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure* by such Revenue-officer as the Local Government may authorize in that behalf by rule made under section 392 of the said Code.

(3) The order on any application under this section shall have the effect of, and be subject to the like appeal as, a decree

† CHAPTER XIII A.

SUMMARY PROCEDURE FOR THE RECOVERY OF RENTS UNDER "THE BENGAL PUBLIC DEMANDS RECOVERY ACT, 1913," [THE BIHAR AND ORISSA PUBLIC DEMANDS RECOVERY ACT, 1913]†

* Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to that Code—see s 158 thereof.

† Chapter XIII A (section 158A) was substituted, for the original Chapter XIII A, by the Bengal Public Demands Recovery Act, 1913 (Ben Act III of 1913), and B & O Act IV of 1914, s 60. The original Chapter ran thus —

CHAPTER XIII A

SUMMARY PROCEDURE FOR THE RECOVERY OF RENTS UNDER THE PUBLIC DEMANDS RECOVERY ACT, 1895

158A (1) Any landlord whose land is situate in an area for which a record of rights has been prepared and finally published, and in which such record is maintained,

may apply to the Local Government, through the Collector of the district in which his land is situate, for the application of the procedure prescribed by the Public Demands Recovery Act, 1895, to the recovery of the arrears of rent which he alleges are, or may accrue, due to him for lands in such area

(2) The Local Government may reject any such application, or may allow it subject to such terms and conditions as it may see fit to impose, and may at any time add to or vary any terms or conditions so imposed, or withdraw its allowance of the application, without, in any of these cases, assigning any reason for its action.

(3) When any such application has been allowed, the landlord may make a requisition in writing, in the Form prescribed to such Revenue-officer as the Local Government may appoint, for the purpose of this section, to perform the functions of a Certificate Officer under the Public Demands Recovery Act, 1895,* for the recovery of any arrears of rent which he alleges are due to him from any tenant.

† The words within brackets have been substituted in the new Province of Bihar and Orissa for the words under quotations by B. & O Act IV of 1919, Ben. Act III of 1913.

* Ben. Act I of 1895.

158A. (1) Any landlord (other than the Government) whose land is situate in an area for which a record-
 Recovery of arrears of rent under the certi- of rights has been prepared and finally
 ficate procedure in cer- published, and in which such record is
 tain areas maintained.

(4) Every such requisition shall be signed and verified by the landlord making it, in accordance with the provisions of sections 51 and 52 of the Code of Civil Procedure* as to the verification of plaints, and there shall be payable in respect of every such requisition a Court-fee of the same amount as is payable under the Court-fees Act† for the time being in force in respect of a plaint for the recovery of a sum of money equal to that stated in such requisition

(5) On the receipt of such requisition the Revenue-officer may, in accordance with such rules as the Local Government may prescribe in this behalf, issue certificates in the form prescribed therefor for the recovery of the arrears alleged to be due,

and any such certificate shall, as regards the remedies for enforcing the same and so far only, have the force and effect of a decree of a Civil Court passed in a suit for the recovery of rent, and the provisions of Chapter XIV shall, so far as may be practicable, be applicable to all proceedings for the execution of such certificate

Provided that—

(a) no certificate shall be issued for the recovery of arrears of rent of a tenancy regarding which a suit has been instituted in a Civil Court for the alteration of the rent payable by the tenant or the determination of his status as a tenant, in respect of the period during which it is alleged in the requisition made under sub-section (3) the arrears of rent sought to be recovered have accrued, and,

(b) if after the issue of a certificate it is found that such a suit has been instituted in a Civil Court before the issue of the certificate, such certificate shall be cancelled.

(6) The following provisions of the Public Demands Recovery Act, 1895, shall, so far as they are applicable, apply to the proceedings for the execution of all certificates for the recovery of arrears of rent issued under sub-section (5), namely—

the proviso to sub-section (1) of section (7), and sections 10 to 17 (both inclusive) and 22 to 33 (both inclusive),

(7) No landlord shall, during the pendency of any proceedings under this section, institute a suit in a Civil Court for the recovery of any arrears of rent in respect of which he has made a requisition under sub-section (3),

and, subject to the provisions of section 15 of the Public Demands Recovery Act, 1895, no tenant shall, after the issue of any certificate against him under sub-section (3), institute a suit in, or apply to, a Civil Court for the alteration of the rent payable by him, or the determination of his status as a tenant, in respect of the period during which the arrears of rent for which such certificate was issued have accrued.

(8) The word “landlord” in this section includes an entire body of landlords, and also one or more co-sharer landlords who collects or collect his or their share or shares of the rent separately, and, where the Revenue-officer issues a certificate on the requisition of one or more such co-sharer landlords, he shall at the same time issue to each of the remaining co-sharer landlords a copy of such certificate.

* XIV of 1882.

† VII of 1870.

may apply to the Local Government, through the Collector of the district in which his land is situate, for the application of the procedure prescribed by the Bengal Public Demands Recovery Act, 1913,* [the Bihar and Orissa Public demands Recovery Act, 1914†] to the recovery of the arrears of rent which he alleges are, or may accrue, due to him for lands in such area

(2) The Local Government may reject any such application, or may allow it subject to such terms and conditions as it may see fit to impose, and may at any time add to or vary any terms or conditions so imposed, or withdraw its allowance of the application, without, in any of these cases, assigning any reason for its action

(3) When any such application has been allowed, the landlord may make a requisition in writing, in the form prescribed,

to such Revenue-officer as the Local Government may, appoint, for the purpose of this section, to perform the functions of a Certificate officer under "the Bengal Public Demands Recovery Act, 1913" ["The Bihar and Orissa Public demands Recovery Act, 1914"]†

for the recovery of any arrears of rent which he alleges are due to him from any tenant.

(4) Every such requisition shall be signed and verified by the landlord making it, in the manner prescribed by rule I in Schedule II of the said Act, as amended for the time being by rules made under section 39 thereof, and shall be chargeable with a fee of the amount which would be payable under the Court fees Act, 1870‡ in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.

(5) On receipt of such requisition, the said Revenue officer may, in accordance with such rules as the Local Government may prescribe in this behalf, and if he is satisfied that the arrear is due, sign a certificate, in the prescribed form, stating that the arrear is due; and shall include in the certificate the fee paid under sub-section (4), and shall cause the certificate to be filed in his office :

Provided that—

(a) no certificate shall be signed for the recovery of arrears of rent of a tenancy regarding which a suit has been instituted in a Civil Court for the alteration of the rent payable by the tenant or the determination of

* Ben Act III of 1913.

† Read the words within brackets for the words within quotations in the new Province of Bihar and Orissa—Vide B & O Act 4 of 1914

‡ VII of 1870.

his status as a tenant, in respect of the period during which it is alleged in the requisition made under sub-section (3) that the arrears of rent sought to be recovered have accrued, and

(b) if, after the signing of a certificate, it is found that such a suit was instituted in a Civil Court before the certificate was signed, such certificate shall be cancelled.

(6) The person in whose favour any certificate is signed under sub-section (5) shall be deemed to be the certificate holder for the amount mentioned in the certificate, and the person against whom the certificate is signed shall be deemed to be the certificate debtor for the said amount; and all proceedings taken by the Certificate-officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his cost and responsibility, and not otherwise.

“(7) The Bengal Public Demands Recovery Act, 1913.”* [The Bihar and Orissa Public demands Recovery Acts 1914†] with such restrictions and modifications (if any) as may be prescribed, shall apply to the execution, and to all proceedings arising out of the execution, of certificates filed under sub-section (5).

(8) No landlord shall, during the pendency of any proceedings under this section, institute a suit in a Civil Court for the recovery of any arrears of rent in respect of which he has made a requisition under sub-section (3),

and, subject to the provisions of “section 34 of the Bengal Public Demands Recovery Act, 1913” [“section 43 of the Bihar and Orissa Public Demands Recovery Act, 1914”]† no tenant shall, after the signing of any certificate against him under sub-section (5) of this section, institute a suit in, or apply to, a Civil Court for the alteration of the rent payable by him, or the determination of his status as a tenant, in respect of the period during which the arrears of rent for which such certificate was signed have accrued.

(9) The word “landlord” in this section includes an entire body of landlords, and also one or more co sharer landlords who collects or collect his or their share or shares of the rent separately, and, where a Revenue-officer signs a certificate on the requisition of one or more such co-sharer landlords, he shall at the same time issue to each of the remaining co-sharer landlords a copy of such certificate.

* Ben. Act III of 1913.

† Red the words within brackets for the words within quotations in the new provices of Bihar and Orissa vide B & O Act 4 of 1914.

CHAPTER XIV.*

SALE FOR ARREARS UNDER DECREE

Passing of tenure or holding sold in execution of decree or certificate

†158B. ‡(1) Where a tenure or holding is sold in execution of—

- (a) a decree for arrears of rent due in respect thereof, or
- (b) a decree for damages under section 186A, or
- (c) a certificate for arrears of rent signed under "the Bengal Public Demands Recovery Act, 1913" [the Bihar and Orissa Public Demands Recovery Act, 1914] §

the tenure or holding shall, subject to the provisions of section 22, pass to the purchaser, if such decree was obtained by—

- (i) a sole landlord, or
- (ii) the entire body of landlords, or

(iii) one or more co-sharer landlords who has, or have, sued for the rent due to all the co-sharers in respect of the entire tenure or holding and made all the remaining co-sharers parties defendant to the suit, or

if such certificate was signed on the requisition of, or in favour, of a sole landlord or the entire body of landlords,]

(2) When one or more co-sharer landlords having obtained a decree in a suit framed under sub-section (1) or under section 148A, applies, or apply, for the execution of the decree by the sale of the tenure or holding, the Court, shall, before proceeding to sell the tenure or holding, give notice of the application for execution to the other co-sharers

* Inserted by Ben Act I of 1907 and E & A Act I of 1908

† Section 158B was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s 50, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B & A. Act I of 1908), s 50

‡ This sub-section (1) was sub-section (1) by the Bengal Public Demands Recovery Act, 1914 (Ben. Act III of 1913) s 61 B & O Act of 1914 The original sub-section ran thus —

"(1) Where a tenure or holding is sold in execution of a decree for arrears of rent due in respect thereof, or of a decree for damages under section 186A, the tenure or holding shall subject to the provisions of section 22, pass to the purchaser, provided that the decree in execution of which it has been sold has been has been obtained by—

- (a) a sole landlord ; or
- (b) the entire body of landlords ,

- (c) one or more co-sharer landlords, who has, or have sued for the rent due to all the co-shares in respect of the entire tenure or holding and made all the remaining co-sharers parties defendant to the suit."

§ The words within brackets for the words within quotations in the new Province of Bihar and Orissa—vide B & O Act IV of 1914

159. Where a tenure or holding is sold in execution of a decree for arrears due in respect thereof, the purchaser shall take subject to the interests defined in this Chapter as "protected interests," but with power to annul the interests defined in this Chapter as "incumbrances" :
 General powers of purchaser as to avoidance of incumbrances.

Provided as follows :—

(a) a registered and notified incumbrance within the meaning of this Chapter shall not be so annulled except in the case hereinafter mentioned in that behalf ;

(b) the power to annul shall be exerciseable only in manner by this Chapter directed.

160. The following shall be deemed to be protected interests within the meaning of this Chapter :—
 Protected interests.

(a) any under-tenure existing from the time of the Permanent Settlement ;

(b) any under-tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement ;

(c) any lease of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made ;

(d) any right of occupancy ;

(e) the right of a non-occupancy-*raiyat* to hold for five years at a rent fixed under Chapter VI by a Court, or under Chapter X by a Revenue-officer ;

(f) any right conferred on an occupancy-*raiyat* to hold at a rent which was a fair and reasonable rent at the time the right was conferred ; and

(g) any right or interest which the landlord at whose instance the tenure or holding is sold, or his predecessor in title has expressly and in writing given the tenant for the time being permission to create.

161. For the purposes of this Chapter—

Meaning of 'incumbrance' and 'registered and notified incumbrance'.

and "registered and notified incumbrance" shall mean any right or interest in or over land which is registered or notified as such in the manner provided in this Act.

(a) the term "incumbrance," used with reference to a tenancy, means any lien, subtenancy, easement or

other right or interest created by the tenant on his tenure or holding or in limitation of his own interest therein, and not being a protected interest as defined in the last foregoing section

(d) the term "registered and notified incumbrance," used with reference to a tenure or holding sold or liable to sale in execution of a decree for an arrear of rent due in respect thereof, means an incumbrance created by a registered instrument, of which a copy has, not less than three months before the accrual of the arrear, been served on the landlord in manner hereinafter provided,

*[(c) the terms "arrear" and "arrear of rent" shall be deemed to include interest decreed under section 67 or damages awarded in lieu of interest under sub-section (1) of section 68].

162 When a decree has been passed for an arrear of rent due for a tenure or holding, and the decree holder applies under section 235 of the Code of the Civil Procedure † for the attachment and sale of the tenure or holding in execution of the decree, he shall produce a statement showing the pargana, estate and village in which the land comprised in the tenure or holding is situate, the yearly rent payable for the same and the total amount recoverable under the decree

163. (1) Notwithstanding anything contained in the Code of Civil Procedure † when the decree-holder makes the application mentioned in the last foregoing section the Court shall, if under section 245 of the said Code † it admits the application and orders execution of the decree as applied for, issue simultaneously the order of attachment and the proclamation required by section 287 of the said Code †

(2) The proclamation shall, in addition to stating and specifying the particulars mentioned in section 287 of the said Code † announce—

(a) in the case of a tenure or a holding of a *raiyat* holding at fixed rates that the tenure or holding will first be

* Clause (c) was added to section 161, for Western Bengal, by the Bengal Tenancy Amendment Act, 1907 (Ben. Act I of 1907) s 51, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act, I of 1908), s 51

† Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908). and this reference should now be taken to be made to that Code—

put up to auction subject to the registered and notified incumbrances, and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will if the decree-holder so desires, be sold on a subsequent day, of which due notice will be given with power to annul all incumbrances ; and

(b) in the case of an occupancy-holding, that the holding will be sold with power to annul all incumbrances.

(3) The proclamation shall, besides being made in the manner prescribed by section 289 of the said code, * be published by fixing up a copy thereof in a conspicuous place on the land comprised in the tenure or holding ordered to be sold, and shall also be published in such manner as the "Local Government" [Board of Revenue]† may, from time to time, direct in this behalf.

(4) Notwithstanding anything contained in section 290 of the said Code, * the sale shall not, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days, calculated from the date on which the copy of the proclamation has been fixed up on the land comprised in the tenure or holding ordered to be sold.

164. (1) When tenure or holding at fixed rates has been advertised for sale under the last foregoing section, it shall be put up to auction subject to registered and notified incumbrances, and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure or holding shall be sold subject to such incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance upon the tenure or holding not being a registered and notified incumbrance.

165. (1) If the bidding for a tenure or a holding at fixed rates put up to auction under the last foregoing section does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree-holder thereupon desires that the tenure or holding be sold with power to avoid all incumbrances, the officer, holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure announcing that the tenure or

* This reference should now be taken to be made to the Code of Civil Procedure, 1908 (Act V of 1098)—see s 168 thereof

† Read the words "Board of Revenue" for the words "Local Government" in the new Province of Bihar and Orissa vide B. & O. Act III or 1916.

holding will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance on the tenure or holding.

Sale of occupancy-holding with power to avoid all incumbrances and effect thereof

166. (1) When an occupancy holding has been advertised for sale under section 163, it shall be put up to auction and sold with power to avoid all incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by the next following section, and not otherwise, annul any incumbrance on the holding.

167. (1) A purchaser having power to annul an incumbrance under any of the foregoing sections* [or under the Bengal Public Demands Recovery Act, 1913.] "or under the Bihar and Orissa Public demands Recovery Act 1914"† and desiring to annul the same, may, within one year from the date of the sale or the date on which he first has notice of the incumbrance, whichever is later, present to the Collector an application in writing requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled

(2) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf

(3) When an application for service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served

(4) When a tenure or holding is sold in execution of a decree ‡ [or a certificate signed under the Bengal Public Demands Recovery Act, 1913.] "or a certificate signed under the Bihar and Orissa Public demands Recovery Act, 1914" § for arrears due in

* The words in square brackets were inserted in s 167 (1) by the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913) s 62 (1)

† The words in square brackets were inserted in s. 167 (4) by the Bengal Public Demands Recovery Act, 1913 s. 62 (2)

‡ Read the words within quotations for the words within brackets in the new Province of Bihar and Orissa by B & O Act IV of 1914.

respect thereof, and there is on the tenure or holding a protected interest of the kind specified in section 160, clause (c), the purchaser may, if he has power under this Chapter * [or that Act] to avoid all incumbrances, sue to enhance the rent of the land which is the subject of the protected interest. On proof that the land is held at a rent which was not at the time the lease was granted a fair rent, the Court may enhance the rent to such amount as appears to be fair and equitable

This sub-section shall not apply to land which has been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

168. (1) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings or any specified class of occupancy holdings in any local area put up for sale in execution of † [a decree for an arrear of rent] due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered and notified incumbrances, and may by like notification rescind any such direction

(2) While any such direction remains in force in respect of any local area, all occupancy-holdings, or, as the case may be, occupancy-holdings of the specified class in that local area, shall, for the purposes of sale under the foregoing sections of this Chapter, be treated in all respects as if they were tenures.

169. (1) In disposing of the proceeds of a sale under this Chapter, the following rules, instead of those prescribed by section 295 of the Code of Civil Procedure‡, shall be observed, that is to say—

- (a) there shall first be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale :
- (b) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made ;

* Inserted by B & O Act 4 of 1914 and Ben Act III of 1913

† These words in square brackets in section 168 (1) were substituted for the words "decrees for rent" for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 52, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B. & A. Act I of 1908), s. 52.

‡ Act XIV of 1892 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to section 73 of that Code—*See* s. 158 thereof.

(c) if there remains a balance after these sums have been paid, there shall be paid to the decree holder therefrom any rent which may have fallen due to him in respect of the tenure or holding between the institution of the suit and the date of * [the confirmation of] the sale,

(d) the balance (if any) remaining after the payment of the rent mentioned in clause (c) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application

† [Provided that, where a tenure or holding has been sold in execution of a decree obtained by one or more co-sharer landlords in a suit framed under section 148 A or sub-section (1) of section 158B,—

(i) payment of the amount due under such decree shall, notwithstanding anything contained in clause (b), be made to the decree-holder and to the other cosharers landlords in proportion to the amount found to be due to each, and,

(ii) if there remains a balance, payment of any rent which may have fallen due in respect of the tenure or holding between the institution of the suit and the date of the confirmation of the sale shall, notwithstanding anything contained in clause (c), but subject to the determination, in the manner and with the effect mentioned in sub-section (2), of any dispute as to their respective rights to receive such rent, be made to the said decree-holder and the other co-sharer landlords in proportion to their respective shares in the tenure or holding.]

(2) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (c), the Court shall determine the dispute, and the determination shall have the force of a decree.

* These words in square brackets in section 169 (c) were inserted for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907) s. 53 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 53 (1)

† This proviso was added to section 169 (1), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907, (Ben. Act I of 1907), s. 53 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908) s. 53 (2).

- * 170. (1) Sections 278 to 283 (both inclusive) *and* 310 A † of the Code of Civil Procedure § shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon.
- † 170 (1) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure § shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon.
- Tenure or holding to be released from attachment only on payment into Court of amount of decree, with costs, or on confession or satisfaction by decreeholder.
- Tenure or holding to be released from attachment only on payment into Court of amount of decree, with costs or on confession of satisfaction by decree-holder.

(2) When an order for the sale of a tenure or holding in execution of such a decree has been made the tenure or holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court,

(2) When an order for the sale of a tenure or holding in execution of such a decree has been made, the tenure or holding shall not be released from attachment unless, before it is knocked down to the auction purchaser the amount of the decree including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court.

(3) The judgment-debtor, or any person having in the tenure or holding any interest voidable on the sale, may pay money into Court under this section,

(3) The judgment-debtor, or any person having in the tenure or holding any interest voidable on the sale, may pay money into Court under this section,

* This section 170 applies to Western Bengal.

† This section 170 applies to Eastern Bengal.

‡ This reference to section 310 A, in section 170 (1) was inserted for Western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907). s. 54.

§ Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908) and this reference should now be taken to be made to that Code—see s 158 thereof.

* (4) The withdrawal of the amount deposited under section 310A of the Code of Civil Procedure † by the decree-holder landlord shall not operate as an admission of the transferability of the tenure or holding sold in execution of the decree.

171. (1) When any person having in a tenure or holding advertised for sale under this Chapter, ‡ [or in execution of a certificate for arrears of rent due in respect thereof, signed under "the Bengal Public Demands Recovery Act, 1913", (the Behar and Orissa Public Demands Recovery Act, 1914)] an interest which would be voidable upon the sale, pays into Court the amount requisite to prevent the sale—

Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding

- (a) the amount so paid by him shall be deemed to be a debt bearing interest at twelve *per centum per annum* and secured by a mortgage of the tenure or holding to him ;
- (b) his mortgage shall take priority of every other charge on the tenure or holding other than a charge for arrear of rent ; and
- (c) he shall be entitled to possession of the tenure or holding as mortgagee of the tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(2) Nothing in this section shall affect any other remedy to which any such person would be entitled,

Inferior tenant paying into Court may deduct from rent.

172. § [When a tenure or holding is advertised for sale—

* Sub-section (4) applies only to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908) s. 54.

† Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure 1908 (Act V of 1908), and this reference should now be taken to be made to rule 89 in Order XXI in Sch I to that Code—*see* s. 158 thereof.

‡ These words in square brackets in s. 171 (1) were inserted by the Bengal Public Demands Recovery Act 1913, (Ben. Act III of 1913) s. 63 and B & O Act 4 of 1914.

§ These words in square brackets in s. 172 were substituted for the words "When a tenure or holding is advertised for sale under this Chapter in execution of a decree against a superior tenant defaulting" by the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913), c. 64.

|| Read the words within Brackets in the words within quotations in the new Province of Bihar and Orissa—Vide B & O Act IV of 1914.

- (a) under this Chapter, in execution of a decree against a superior tenant defaulting, or
- (b) in execution of a certificate, signed under (the Bihar and Orissa Public Demand Recovery Act, 1914) * "the Bengal Public Demands Recovery Act, 1913," for arrears of rent due in respect of the tenure or holding from a superior tenant defaulting]

and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, may, in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

173. (1) Notwithstanding anything contained in section 294 of the Code of Civil Procedure,† the holder of a decree in execution of which a tenure or holding is sold under this Chapter may, without the permission of the Court, bid for or purchase the tenure or holding.

(2) The judgment-debtor shall not bid for or purchase a tenure or holding so sold.

(3) When a judgment-debtor purchases by himself or through another person a tenure or holding so sold, the Court may, if it thinks fit, on the application of the decree-holder or any other person interested in the sale, by order set aside the sale and the costs of the application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it shall be paid by the judgment-debtor.

174. (1) Where a tenure or holding is sold for an arrear of rent due thereon, then, at any time within thirty days from the date of sale, the judgment-debtor may apply to have the sale set aside, on his depositing in Court, for payment to the decree-holder, the amount recoverable under the decree with costs, and for payment to the purchaser, a sum equal to five *per centum* of the purchase-money.

(2) If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale, and the provisions of

* Read the words within brackets for the words within quotations in the new Province of Bihar and Orissa, Vide B & O Act IV of 1914.

† Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof.

section 315 of the Code of Civil Procedure* shall apply in the case of a sale so set aside :

Provided that, if a judgment debtor applies under section 311 of the Code of Civil Procedure* to set aside the sale of his tenure or holding, he shall not be entitled to make an application under this section, † and, if he applies under this section, he shall not be entitled to make an application under section 311 of the Code of Civil Procedure.*]

(3) Section 313 of the Code of Civil Procedure* shall not apply to any sale under this Chapter.

175 Notwithstanding anything contained in Part IV of the Registration of certain Indian Registration Act, 1877,‡ an instrument creating an incumbrance upon any tenure or holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act‡ to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act.

176. Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a tenure or holding and creating an incumbrance on the tenure or holding, shall, at the request of the tenant or of the person in whose favour the incumbrance is created, and on payment by him of such fee as the Local Government may fix in this behalf, notify the incumbrance to the landlord by causing a copy of the instrument to be served on him in the prescribed manner.

177. Nothing contained in this Chapter shall be deemed to enable a person to create an incumbrance which he could not otherwise lawfully create.

* Act XIV of 1892 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof

† These words in square brackets were added to section 174 (2), proviso, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 55, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 55.

‡ Act III of 1877 has been repealed and re-enacted by the Indian Registration Act, 1908 (X of 1908), and this reference should now be construed as a reference to that latter Act.

CHAPTER XV.

CONTRACT AND CUSTOM.

178. (1) Nothing in any contract between a landlord and a tenant made before or after the passing of Restrictions on exclusion of Act by agreement— this Act—

- (a) shall bar in perpetuity the acquisition of an occupancy-right in land, or
- (b) shall take away an occupancy-right in existence at the date of the contract, or
- (c) shall entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act, or
- (d) shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(2) Nothing in any contract made between a landlord and a tenant since the 15th day of July, 1880, and before the passing of this Act, shall prevent a *raiyat* from acquiring, in accordance with this Act, an occupancy-right in land.

(3) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall—

- (a) prevent a *raiyat* from acquiring, in accordance with this Act, an occupancy-right in land ;
- (b) take away or limit the right of an occupancy-*raiyat* to use land as provided by section 23 ;
- (c) take away the right of a *raiyat* to surrender this holding in accordance with section 86 ,
- (d) take away the right of a *raiyat* to transfer or bequeath his holding in accordance with local usage ;
- (e) take away the right of an occupancy-*raiyat* to sub-let subject to, and in accordance with, the provisions of this Act ;
- (f) take away the right of a *raiyat* to apply for a reduction of rent under section 38 or section 52 ;
- (g) take away the right of a landlord or a tenant to apply for a commutation of rent under section 40 ; or
- (h) affect the provisions of section 67 relating to interest payable on arrears of rent

Provided as follows :—

- (i) nothing in this section shall affect the terms or conditions of a lease granted *bona fide* for the reclamation of waste land, except that, where, on or after the

expiration of the term created by the lease, the lessee would, under Chapter V, be entitled to an occupancy-right in the land comprised in the lease, nothing in the lease shall prevent him from acquiring that right ;

(ii) when a landlord has reclaimed waste-land by his own servants or hired labourers, and subsequently lets the same or a part thereof to a *raiyat*, nothing in this Act shall affect the terms of any contract whereby a *raiyat* is prevented from acquiring an occupancy-right in the land or part during a period of thirty years from the date on which the land or part is first let to a *raiyat* ,

(iii) nothing in this section shall affect the terms or conditions of any contract for the temporary cultivation of * [horticultural or] orchard land with agricultural corps.

† [Explanation—The expression “ horticultural land,” as used in proviso (iii), means garden land, in the occupation of a proprietor or permanent tenure-holder, which is used *bona fide* for the cultivation of flowers or vegetables, or both, grown for the personal use of such proprietor or permanent tenure-holder and his family, and not for profit or sale]

179. Nothing in this Act shall be deemed to prevent a proprietor or a holder of a permanent tenure in a permanently-settled area from granting a permanent *mukarrari* lease on any terms agreed on between him and his tenant.

Utbandi, *char* and *diara* lands. **180.** (1) Notwithstanding anything in this Act, a *raiyat*—

(a) who, in any part of the country where the custom of *utbandi* prevails, hold lands ordinarily let under that custom and for the time being let under that custom, or

(b) who holds land of the kind known as *char* or *diara*, shall not acquire a right of occupancy—

in case (a), in land ordinarily held under the custom of *utbandi* and for the time being held under that custom, or

* These words in square brackets in proviso (iii) were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 56 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 56 (1).

† This Explanation was added to proviso (iii), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 56 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 56 (2)

in case (b), in the *char* or *diara* land,

until he has held the land in question for twelve continuous years; and, until he acquires a right of occupancy in the land, he shall be liable to pay such rent for his holding as may be agreed on between him and his landlord.

(2) Chapter VI shall not apply to *raiylats* holding land under the custom of *utbandi* in respect of land held by them under that custom.

(3) The Collector may, on the application of either the landlord or the tenant or on a reference from the Civil Court, declare that any land has ceased to be *char* or *diara* land within the meaning of this section, and thereupon all the provisions of this Act shall apply to the land.

"180A * (1) Notwithstanding anything contained in section 180, when a raiyat who is or who but for the operation of section 180 in respect of land held under the custom of *utbandi* would have been, a settled raiyat of the village, holds or has held under the custom of *utbandi*, or under any form of tenancy locally known as *utbandi* land (hereinafter referred to as *utbandi* land,) either the landlord or the raiyat may apply to have a uniform annual money rent determined for the land.

Fixing of uniform annual money rent in respect of *utbandi* lands

(2) The application shall include at the discretion of the applicant either—

(a) all *utbandi* lands held in the same village by the same raiyat under the same landlord in which the raiyat has acquired a right of occupancy whether under the provisions of section 180 or otherwise, or

(b) all the lands held in the same village under the same landlord by the raiyat which the raiyat, or any deceased person whose heir he is, has cultivated as *utbandi* land at any time during the preceding period of six years if he or the said deceased person is the last person to have cultivated the land and has not or had not acquired occupancy rights therein, or

(c) both.

(3) Subject to the provisions of sub-section (2) a single application may be made by a landlord in respect of lands held as *utbandi* lands in the same village by one or more raiylats under him and a joint application may be made by two or more raiylats in respect of lands held by them as *utbandi* lands in the same village under the same landlord.

(4) The application may be made to the Collector or to a Subdivisional Officer or to a Revenue Officer

appointed by the Local Government under the designation of Settlement Officer or Assistant Settlement Officer for the purpose of making a survey and record of-rights under Chapter X or to any other officer specially authorised by the Local Government,

- (5) The case may be determined by the officer who receives the application or the Collector or the Settlement Officer may transfer it for disposal to some other officer competent under sub-section (4) to receive applications.
- (6) The officer receiving the application or the officer to whom the case is transferred as the case may be, shall cause notice to be given in the prescribed manner to the opposite party, and shall fix a date for the determination of the case. If the immediate landlord of the raiyat is a temporary tenure-holder or *ijaradar* the officer receiving the application shall also give notice to the superior landlord in the lowest degree, who is a proprietor or permanent tenure-holder.
- (7) If the application is made in respect of lands which the raiyat has not acquired occupancy rights, the officer may reject it in respect of such lands, if he is satisfied in view of all the circumstances of the case that it is unreasonable to grant it :

Provided that a refusal shall be no bar to proceedings being again taken under this section after five years from the date of refusal if in the opinion of the officer who then receives the application the circumstances have in the meantime changed.

- (8) If the application is not rejected, the officer shall then determine the sum to be paid as a uniform annual money rent and also in the case of lands in which the raiyat has not acquired occupancy rights, a premium to be paid to the landlord, and he shall order that the raiyat shall, in lieu of paying the rent for the land as *utbandi* land, pay the sum so determined and the premium, if any :

Provided that in any case in which an order fixing a uniform annual money rent is passed *ex parte* the opposite party may within one month of the date of such order or when the notice has not been duly served within one month of the date of his knowledge of such order apply to the officer by whom the order was passed for an order to set it aside and, if he satisfies the officer that the notice of the application

under sub-section (1) was not duly served on him or that he was prevented by any sufficient cause from appearing when the case was determined, the officer shall set aside the order and shall appoint a day for the determination of the case. No order shall be set aside on application made under this proviso unless notice thereof has been served on the respondent thereto.

- (9) In making the determination of the sum to be paid as rent, the officer shall calculate the average of the amount that was actually paid or payable as rent for the land for the previous six years and shall ordinarily declare the same as the sum to be paid as rent :

Provided that the officer may also take into consideration—

- (a) the average money rent payable by occupancy raiyats for land of a similar description and with similar advantages in the vicinity ;
- (b) the average rates for lands of a similar description and with similar advantages in the vicinity held as *utbandi* lands ;
- (c) the average money rent payable for lands of a similar description and with similar advantages in the vicinity by raiyats who formerly paid their rent for those lands as *utbandi* lands but whose rents have been converted into uniform annual money rents whether under this section or by agreement or otherwise ;
- (d) the charges incurred in accordance with custom by the landlord in respect of the irrigation and drainage of the *utbandi* lands and the arrangements made for continuing those charges ;
- (e) the rules laid down in this Act for the guidance of the Civil Courts in enhancing or reducing rents on account of the holdings of occupancy raiyats ;
- (f) any sum agreed to by the parties to be paid as money rent ;

Provided that the officer shall in no case determine a rent which is unfair or inequitable.

- (10) The premium to be paid to the landlord in the case of lands in which the raiyat has not acquired occupancy rights shall be three times the rent, or, if the application is made under clause (c) of sub-section (2), three times the portion of the rent determined under sub-section (8) on account of such lands,

- (11) If the immediate landlord of the raiyat is a temporary tenure holder or *iyaradar* the officer shall apportion the premium payable under sub section (10) between the said temporary tenure holder or *iyaradar* and his superior landlord of the lowest degree who is a proprietor or permanent tenure-holder in such manner as may appear fair and reasonable to the officer in view of all the circumstances of the case, and any sum so awarded to the said superior landlord shall be recoverable by him from the temporary tenure holder or *iyaradar* or his successor in interest as an arrear of rent but shall not be recoverable by the superior landlord from the raiyat.
- (12) The order shall be in writing, shall state the grounds on which it is made, and shall, in the absence of any special reasons to the contrary recorded in writing, take effect from the beginning of the agricultural year next after the date on which it is made.
- (13) The officer shall fix the date (not being more than one month from the date of the order) by which the premium shall be paid or he may, on the application of the raiyat, order that the premium shall be paid by instalments not exceeding three in number, that the first instalment shall be paid at the beginning of the agricultural year in which the rent settled under sub-section (8) takes effect and that one of the remaining instalments shall be paid at the beginning of each of the succeeding agricultural years until the premium is paid in full.
- (14) The premium or any instalment thereof shall be recoverable as rent and if the premium or any instalment thereof is not paid by the date fixed under sub-section (13) for the payment of such premium or instalment the landlord may make a requisition to the Collector for the recovery of the arrear of the same in the manner set forth in sub-sections (3) and (4) of section 158A, and the provisions of sub-sections (5) to (9) of that section shall apply to the recovery of the said arrear by the Collector as if it were an arrear of rent, recoverable by him under the provisions of that section.
- Interest shall not be payable on any instalment in respect of which default has not been made.
- The Local Government may make rules prescribing the form of requisition to be made by a landlord under this sub-section and for carrying into effect the purposes of this sub-section.

- (15) Any order made under this section shall be subject to appeal in the manner provided in section 109A, unless the application has been made in the course of proceedings under Part II of Chapter X, in which case the provisions of sections 104G and 104H shall apply.
- (16) An application made under sub-section (1) may be amended if it appears at any time to the officer prior to the issue of the order under sub-section (7) or sub-section (8) or to the appellate or revisional Court that it does not comply with the provisions of sub-section (2) but that it can be brought into conformity with that sub-section. Such amendment may be made either on the initiative of the parties or either of them or of the officer or Court but it shall not be made unless prior notice thereof is given to the parties, and, if such amendment is made, it shall be made only on such terms or conditions as to such officer or Court shall appear to be just.
- (17) Notwithstanding anything contained elsewhere in this Act or in any other law, no suit shall be brought or application made in any Court in respect of any order passed under this section, save as is provided in this section *

180B.* Whenever an order under section 180A is passed determining a uniform annual money rent for any lands, such lands, shall cease to be held as *utbandi* lands with effect from the date from which the new rent takes effect, and the tenant shall hold them as an occupancy raiyat from the date of the order.

Lands in respect of which a uniform annual money rent has been fixed under section 180A to cease to be *utbandi* land.

180C.* (1) Where a uniform annual money rent has been fixed under section 180A, the said rent shall not, except on the ground of a landlord's improvement or of a subsequent alteration of the area of the holding, be enhanced for fifteen years; nor shall it be reduced for fifteen years, save on the ground of alteration in the area of the holding, or on the ground specified in clause (a) of sub-section (1) of section 38

Period for which rent fixed under section 180A to remain unaltered.

(2) The said period of fifteen years shall be counted from the date on which the order takes effect under sub-section (12) of section 180A".*

* Sections 180A to 180C have been inserted by Ben Act 10 of 1923. At present these sections extend only to the districts of Nadia, Murshidabad and Jessore, but the Local Government may, by notification in the *Calcutta Gazette*, extend it to any other district or part of a district in the new Province of Fort William in Bengal—Vide Ben. Act X of 1923.

181. Nothing in this Act shall affect any incident of a *ghatwali** or other service-tenure, or, in particular, shall confer a right to transfer or bequeath a service-tenure which, before the passing of this Act, was not capable of being transferred or bequeathed.

182. When a *raiyat* holds his homestead otherwise than as part of his holding as a *raiyat*, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a *raiyat*.

183. Nothing in this Act shall affect any custom, usage or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions.

Illustrations.

(1) A usage under which a *raiyat* is entitled to sell his holding without the consent of his landlord is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That usage, accordingly, wherever it may exist, will not be affected by this Act.

(2) The custom or usage that an under-*raiyat* should, under certain circumstances, acquire a right of occupancy is not inconsistent with and is not expressly or by necessary implication modified or abolished, by the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

CHAPTER XVI.

LIMITATION.

184 (1) The suits, appeals and applications specified in Schedule III annexed to this Act shall be instituted and made within the time prescribed in that Schedule for them, respectively ; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed although limitation has not been pleaded.

(2) Nothing in this section shall revive the right to institute any suit or appeal or make any application which would have been barred by limitation if it had been instituted or made immediately before the commencement of this Act.

* As to *ghatwali* tenures, see the Bengal Ghatwali Lands Regulations, 1814 (XXIX of 1814), and the Bengal Ghatwali Lands Act, 1859 (V of 1859).

185. (1) Sections 7, 8 and 9 of the Indian Limitation Act, 1877*, shall not apply to the suits and applications mentioned in the last foregoing section

Portions of the Indian Limitation Act not applicable to such suits etc.

(2) Subject to the provisions of this Chapter, the provisions of the Indian Limitation Act, 1877*, shall apply to all suits, appeals and applications mentioned in last foregoing section.

CHAPTER XVII SUPPLEMENTAL

Penalties.

186. (1) If any person, otherwise than in accordance with this Acts or some other enactment for the time being in force,—

Penalties for illegal interference with produce.

- (a) distrains or attempts to distrain the produce of a tenant's holding, or,
- (b) resists a distraint duly made under this Act, or forcibly or clandestinely removes any property duly distrained under this Act, or,
- (c) except with the authority or consent of the tenant, prevents or attempts to prevent the reaping, gathering, storing, removing or otherwise dealing with any produce of a holding,

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code †

(2) Any person who abets, within the meaning of the Indian Penal Code † the doing of any act mentioned in sub-section (1), shall be deemed to have abetted the commission of criminal trespass within the meaning of that Code.†

† Damages for denial of landlord's title.

† 186A. (1) When, in any suit between a landlord and tenant as such, the tenant renounces his character as tenant of the landlord by setting up without reasonable or probable cause title

Damages for denial of landlord's title

* Act XV of 1877 has been repealed and re enacted by the Indian Limitation Act, 1908 (IX of 1908), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (X of 1897).

† XLV of 1860

‡ This heading and section 186A were inserted for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907, (Ben Act I of 1907) s. 57. and for Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 57.

in a third person or himself, the Court may pass a decree in favour of the landlord for such amount of damages not exceeding ten times the amount of the annual rent payable by the tenant, as it may consider to be just,

(2) The amount of damages decreed under sub-section (1), together with any interest accruing due thereon, shall, subject to the landlord's charge for rent be a first charge on the tenure or holding of the tenant, and the landlord may execute such decree for damages and interest, either as a decree for a sum of money, or, subject to the provisions of section 158B, in any of the modes in which a decree for rent may executed.

Agents add representatives of landlords.

187. (1) Any appearance, application or act, in, before or to any Court or authority, required or authorized by this Act to be made or done by a landlord may, unless the Court or authority otherwise directs be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord.

(2) Every notice required by this Act to be served on, or given to a landlord shall if served on, or given to, an agent empowered as aforesaid to accept service of or receive the same on behalf of the landlord, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

(3) Every document required by this Act to be signed or certified by a landlord, except an instrument appointing or authorizing an agent, may be signed or certified by an agent of the landlord authorized in writing in that behalf.

188. Where two or more persons are joint-landlords, any thing which the landlord is under this Act required or authorized to do must be done either by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them

<p>* 188A. Notwithstanding Procedure in suits by joint-landlords. every suit between landlord and tenant as such instituted by—</p>	<p>† 188A. Notwithstanding Procedure in suits by joint-landlords. every suit between landlord and tenant as such instituted by—</p>
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* This section 188A applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s 58

† This section 188A applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B & A. Act I of 1908), s 58.

- (a) a sole landlord,
- (b) the entire body of landlords, or
- (c) one or more co-sharer landlords,

- (a) a sole landlord,
- (b) the entire body of landlords, or
- (c) one or more co-sharer landlords,

shall be subject to the provisions of sections 143 to 153 (both inclusive);

shall be subject to the provisions of sections 143 to 153 (both inclusive);

and, to every decree passed in a suit framed under sub-section (1) or sub-section (2) of section 158B the provisions of Chapter XIV shall, so far as may be practicable, be applicable.

and, to every decree passed in a suit framed under *section 148A or section 158B* the provisions of Chapter XIV shall, so far as may be practicable, be applicable.

Rules under Act.

Power to make rules regarding procedure, powers of officers and services of notices.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules, consistent with this Act,—

- (1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

- (a) any power exercised by a Civil Court in the trial of suits;
- (b) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875; and
- (c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

- *[(2) to prescribe the forms to be used, and the mode of service of notices issued, under this Act, where no form or mode is prescribed by this or any other Act;

* These sub-sections (2) to (4) were substituted for the original sub-section (2), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 59, and for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 59. The original sub-section ran thus.—

“(2) to prescribe the mode of service of notices under this Act, where no mode is prescribed by this or any other Act.”

- (3) to prescribe the manner in which land lord's fees shall be transmitted to the landlord ; and
- (4) to prescribe the authority by whom the fees deposited under sections 12, 13, 15, 17 and 18, clause (a), may be declared to be forfeited, and the mode in which such fees, when so forfeited, shall be dealt with]

[189A.* (1) It shall be competent to the Board of Revenue to transfer, and with the previous sanction of the Local Government to make rules authorizing revenue officers to transfer, any suit or other proceedings, original or otherwise, under any provision of this Act, from the file of any other subordinate officer to the file of any other subordinate officer who is duly authorized to entertain or decide suits or other proceedings under such provision.

Transfer of proceed-
ings.

(2) No decision or order made by any revenue officer under any provision of this Act shall, if such officer was duly authorized to act under such provision, be deemed to be invalid by reason only that the suit or other proceeding in which it was made, came to his file, prior to the commencement of the Bihar Tenancy (Amendment and Validating) Act, 1920, without a due order of transfer.

190. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

Procedure for making,
publication and con-
firmation of rules

(2) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner .

Provided that every such draft shall be published in the official Gazette.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

* Section 189A has been inserted by B & O. Act IX of 1920 and it is in force in the new Province of Bihar and Orissa

(6) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same]

Provisions as to temporarily-settled districts

191. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue authority empowered by the Government to make definitely or confirm settlements.

192. When a landlord grants a lease or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a particular rent, and while the lease or contract is in force—

(a) land-revenue is for the first time made payable in respect of the land, or

(b) land-revenue having been previously payable in respect of it, a fresh settlement of land revenue is made,

a Revenue officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant, * [or of his own motion,] fix a fair and equitable rent for the land in accordance with the provisions of this Act.

*Rights of pasturage, etc. **

193. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of any thing payable or deliverable in respect of any rights of pasturage, forest-right, rights over fisheries and the like.

Saving for conditions binding on landlords.

194. Where a proprietor or permanent tenure-holder holds his estate or tenure subject to the observance of any specified rule or condition, nothing in this Act shall entitle any person occupying land within the estate or tenure to do any act which involves a violation of that rule or condition.

* These words in square brackets in section 192 were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 60 and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 60.

*Savings for special enactments.*Savings for special
enactments.**195** Nothing in this Act shall affect—

- (a) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act ;
- (b) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the Revenue authorities
- (c) any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue,
- (d) any enactment relating to the partition of revenue-paying estates ;
- (e) any enactment relating to *palm* tenures, in so far as it relates to those tenures ; or
- (f) any other special or local law not repealed either expressly or by necessary implication by this Act.

Construction of Act.

196 This Act shall be read subject to every Act passed after its commencement by the Lieutenant-Governor of Bengal in Council.

Act to be read subject to Act hereafter passed by Lieutenant Governor of Bengal in Council

* But see now the Indian Councils Act, 1892 (55 & 56 Vict, c, 14).

SCHEDULE I
(See section 2)
REPEAL OF ENACTMENTS.
Regulations of the Bengal Code

Number and year	SUBJECT OF REGULATION	Extent of repeal
* VIII of 1793 ...	A Regulation for re-enacting with modifications and amendments the rules for the Decennial Settlement of the public revenue payable from the lands of the <i>samin-dars</i> , independent <i>talukdars</i> and other actual proprietors of land in Bengal, Bihar and Orissa, passed for those Provinces, respectively, on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 64 and 65.
† XII of 1805 ..	A Regulation for the settlement and collection of the public revenue in the <i>zila</i> of Cuttack, including the <i>parganas</i> of Pataspur, Kamardachoi, and Bhogra, at present included in the <i>zila</i> of Midnapore.	Section 7
‡ V of 1812 ...	A Regulation for amending some of the rules at present in force for the collection of the land-revenue.	Sections 2, 3, 4, 26 and 27.
§ XVIII of 1812 ...	A Regulation for explaining section 2, Regulation V, 1812, and rescinding sections 3 and 4, Regulation XLIV, 1793, and sections 3 and 4, Regulation L, 1795, and enacting other rules in lieu thereof	The preamble and sections 2 and 3.
|| XI of 1825 ..	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea.	In clause 1 of section 4, from and including the words "Nor if annexed to a subordinate tenure" to the end of the clause.

* The Bengal Decennial Settlement Regulations, 1793

† The Cuttack Land-revenue Regulation, 1805. Section 7 has since been repealed every where by the Repealing and Amending Act, 1903 (I of 1903).

‡ The Bengal Land-revenue Sales Regulation, 1812

§ The Bengal Leases and Land-Revenue Regulation, 1812

|| The Bengal Alluvion and Diluvion Regulation, 1825.

Acts of the Bengal Councils

Number and year.	SUBJECT OF ACT	Extent of repeal.
* VI of 1862 ...	An Act to amend Act X of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The whole Act
† IV of 1867 .	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act
‡ VIII of 1869 ...	An Act to amend the Procedure in suits between landlords and tenants.	The whole Act.
§ VIII of 1879 ...	An Act to define and limit the powers of Settlement-officers	The whole Act.
<i>Act of the Governor-General in Council.</i>		
|| X of 1859 .	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.

* The Bengal Rent Act, 1862

† The Bengal Rent (Appeals) Act, 1867

‡ The Landlord and Tenant Procedure Act, 1869

§ The Bengal Rent Settlement 1879

|| The Bengal Rent Act, 1859

FORM OF ACCOUNT.

1. Year	2. Tenant's name	3. Particulars of holding—(area, rent, etc.)	Rs. A. P.
		<i>Niklas</i>	
		<i>Government Ceases</i>	
		<i>Bighas</i>	Rs. A. P.
		<i>Bhaok</i>	
		<i>Jalkar</i>	
		<i>Bankar</i>	
		<i>Phalkar</i>	
		<i>Maunds</i>	Rs. A. P.
		4. Demand of the year.	
		5. Balance of former year, (<i>Dakanya</i>)	
			Rs. A. P.
		6. Total demand (current and arrears)	
		7. Paid each on account of { Current demand	
		{ Arrear demand	
		8. Paid in kind	
			Rs. A. P.
		9. Balance outstanding at end of year	
		10. Signature of the Landlord or his Authorized Agent	

FORM OF ACCOUNT.

1. Year	2. Tenant's name	3. Particulars of holding—(area, rent, etc.)	Rate	Rs. A. P.
	<i>Nukdi</i>			
	Government Cesses			
	<i>Bighas</i>		Maunds	Rs. A. P.
	<i>Bhach</i>			
	<i>Jalkar</i>			
	<i>Bankar</i>			
	<i>Phalkar</i>			
			Maunds	Rs. A. P.
	4. Demand of the year			
	5. Balance of former years (<i>Bakaya</i>)			
	6. Total demand (current and arrear)			Rs. A. P.
	7. Paid each on account of			
	{ Current demand			
	{ Arrear demand			
	8. Paid in kind			
	9. Balance outstanding at end of year			Rs. A. P.
	10. Signature of the Landlord or his Authorized Agent			

- 3 To recover possession of land claimed by the plaintiff as*
[a *raiyat* or an under *raiyat*.] Two years The date of dispossession[†]

PART II.—*Appeals.*

Description of appeal	Period of limitation.	Time from which period begins to run
4. From any decree or order under this Act, to the Court of a District Judge or Special Judge.	Thirty days	The date of the decree or order appealed against.
5. From any order of a Collector under this Act, to the Commissioner.	Thirty days	The date of the order appealed against

PART III.—*Applications.*

Description of application	Period of limitation.	Time from which period begins to run
6. For the execution of a decree or order made †[in a suit between landlord and tenant to whom the provisions of this Act are applicable,] and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree; except where the judgment-debtor has by fraud or force prevented the execution of the decree in which case the period of limitation shall be governed by the provisions of the Indian Limitation Act 1877 ‡	Three years	(1) The date of the decree or order; or (2) where there has been an appeal, the date of the final decree or order of the appellate Court; or (3) where there has been a review of judgment, the date of the decision passed on the review.

* These words in square brackets in Article 3 were substituted for the words "an occupancy-*raiyat*," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 61 (3), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 61 (3).

† These words in square brackets in Article 6 were substituted for the words "under this Act, or any Act repealed by this Act," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 61 (4), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. and A. Act I of 1908), s. 61 (4).

‡ Act XV of 1877 has been repealed and re-enacted by the Indian Limitation Act, 1908 (IX of 1908), and this reference should now be construed as a reference to the latter Act—the General Clause Act, 1897 (X of 1897), s. 8.

